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# QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

## Extrajudicial, summary or arbitrary executions

## Report by the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights resolution 1995/73

CONTENTS

| | Paragraphs | Page |
|---|---|---|
| Introductory remarks | 1 - 3 | 5 |
| Introduction | 4 - 6 | 5 |
| Chapter | | |
| I. THE MANDATE | 7 - 12 | 6 |
| A. Terms of reference | 7 - 9 | 6 |
| B. Extrajudicial, summary or arbitrary executions | 10 | 6 |
| C. Methods of work | 11 - 12 | 7 |

* In view of its length, the present document is being issued in the original language only, the Conference Services Division of the United Nations Office at Geneva having insufficient capacity to translate documents that greatly exceed the 32-page limit recommended by the General Assembly (see Commission resolution 1993/94, para. 1).

GE.96-10398 (E)

CONTENTS (continued)


| Chapter | | Paragraphs | Page |
|---|---|---|---|
| II. | ACTIVITIES | 13 - 25 | 8 |
| | A. Consultations | 13 | 8 |
| | B. Communications | 14 - 15 | 9 |
| | C. Visits | 16 - 17 | 9 |
| | D. Cooperation with United Nations procedures | 18 - 22 | 10 |
| | E. Other activities to promote the mandate | 23 - 25 | 10 |
| III. | SITUATIONS | 26 - 539 | 11 |
| | A. General | 26 - 28 | 11 |
| | B. Country situations | 29 - 539 | 12 |
| | Afghanistan | 29 | 12 |
| | Algeria | 30 - 40 | 12 |
| | Angola | 41 - 44 | 14 |
| | Argentina | 45 - 47 | 15 |
| | Armenia | 48 - 49 | 16 |
| | Azerbaijan | 50 | 16 |
| | Bahrain | 51 - 56 | 16 |
| | Bangladesh | 57 - 61 | 17 |
| | Belarus | 62 - 63 | 19 |
| | Bolivia | 64 - 66 | 19 |
| | Botswana | 67 - 69 | 19 |
| | Brazil | 70 - 80 | 20 |
| | Bulgaria | 81 - 82 | 22 |
| | Burkina Faso | 83 - 84 | 23 |
| | Burundi | 85 - 92 | 23 |
| | Cambodia | 93 - 96 | 24 |
| | Cameroon | 97 | 25 |
| | Canada | 98 - 100 | 26 |
| | Central African Republic | 101 - 102 | 26 |
| | Chad | 103 - 109 | 26 |
| | Chile | 110 - 112 | 28 |
| | China | 113 - 125 | 28 |
| | Colombia | 126 - 150 | 31 |
| | Côte d'Ivoire | 151 - 154 | 40 |
| | Cuba | 155 - 160 | 41 |
| | Czech Republic | 161 - 162 | 43 |
| | Djibouti | 163 - 164 | 43 |
| | Ecuador | 165 - 166 | 43 |
| | Egypt | 167 - 179 | 44 |
| | El Salvador | 180 - 183 | 46 |
| | Equatorial Guinea | 184 - 186 | 47 |

CONTENTS (continued)


| Chapter | | Paragraphs | Page |
|---|---|---|---|
| | Ethiopia | 187 - 191 | 47 |
| | France | 192 - 195 | 48 |
| | Gambia | 196 | 49 |
| | Georgia | 197 - 202 | 49 |
| | Germany | 203 - 207 | 50 |
| | Guatemala | 208 - 227 | 51 |
| | Honduras | 228 - 230 | 56 |
| | India | 231 - 241 | 56 |
| | Indonesia | 242 - 257 | 59 |
| | Iran (Islamic Republic of) | 258 - 265 | 64 |
| | Iraq | 266 - 273 | 65 |
| | Israel | 274 - 284 | 67 |
| | Kenya | 285 - 287 | 69 |
| | Kuwait | 288 - 289 | 69 |
| | Krygyzstan | 290 - 291 | 69 |
| | Liberia | 292 - 298 | 70 |
| | Libyan Arab Jamahiriya | 299 - 300 | 71 |
| | Lithuania | 301 | 72 |
| | Mali | 302 - 304 | 72 |
| | Mauritania | 305 - 306 | 73 |
| | Mauritius | 307 | 73 |
| | Mexico | 308 - 322 | 73 |
| | Mongolia | 323 | 77 |
| | Morocco | 324 - 326 | 77 |
| | Myanmar | 327 - 335 | 77 |
| | Nepal | 336 - 337 | 79 |
| | Nigeria | 338 - 357 | 79 |
| | Pakistan | 358 - 372 | 84 |
| | Panama | 373 - 374 | 88 |
| | Papua New Guinea | 375 - 378 | 88 |
| | Paraguay | 379 | 90 |
| | Peru | 380 - 397 | 90 |
| | Philippines | 398 - 402 | 94 |
| | Portugal | 403 | 95 |
| | Republic of Moldova | 404 - 405 | 95 |
| | Romania | 406 - 407 | 95 |
| | Russian Federation | 408 - 413 | 96 |
| | Rwanda | 414 - 420 | 97 |
| | Saudi Arabia | 421 - 424 | 99 |
| | Sierra Leone | 425 - 427 | 100 |
| | Singapore | 428 - 435 | 101 |
| | Sri Lanka | 436 - 444 | 103 |
| | South Africa | 445 - 451 | 105 |
| | Sudan | 452 - 456 | 107 |
| | Swaziland | 457 - 459 | 109 |
| | Syrian Arab Republic | 460 - 462 | 110 |
| | Tajikistan | 463 - 464 | 110 |
| | Thailand | 465 - 466 | 110 |

CONTENTS (continued)


| Chapter | | Paragraphs | Page |
|---|---|---|---|
| | Togo | 467 - 470 | 111 |
| | Trinidad and Tobago | 471 - 475 | 112 |
| | Turkey | 476 - 494 | 113 |
| | Ukraine | 495 - 497 | 117 |
| | United Arab Emirates | 498 - 499 | 117 |
| | United Kingdom of Great Britain and Northern Ireland | 500 - 503 | 118 |
| | United Republic of Tanzania | 504 - 506 | 119 |
| | United States of America | 507 - 517 | 120 |
| | Uruguay | 518 - 520 | 124 |
| | Uzbekistan | 521 - 522 | 124 |
| | Venezuela | 523 - 525 | 125 |
| | Yemen | 526 - 527 | 125 |
| | Yugoslavia | 528 - 530 | 125 |
| | Zaire | 531 - 536 | 126 |
| C. | Other | | |
| | Palestinian Authority | 537 - 539 | 127 |
| IV. | CONCLUSIONS AND RECOMMENDATIONS | 540 - 619 | 127 |
| A. | Capital punishment | 540 - 557 | 127 |
| B. | Impunity | 558 - 571 | 132 |
| C. | Rights of the victims | 572 - 576 | 135 |
| D. | Allegations received and acted upon | 577 - 590 | 136 |
| E. | Issues of special concern to the Special Rapporteur | 591 - 619 | 139 |

## Introductory remarks

1. The Special Rapporteur wishes to draw the attention of the Commission on Human Rights to the fact that the financial constraints of the United Nations, particularly suffered in the second half of 1995, had negative repercussions on his mandate. The Special Rapporteur regrets to note that the measures taken in this context have seriously affected the way the mandate has been carried out throughout the year, as well as the preparation of the annual report to the Commission on Human Rights concerning extrajudicial, summary or arbitrary executions.

2. The Special Rapporteur is fully aware of the need for the organization to reduce unnecessary expenditures. He deplores, however, that only shortly before the finalization of his report he was informed that if the report was to be translated into other official languages, the length of the report had to be limited to 32 pages, and that the report in any case should not exceed 100 pages.

3. The Special Rapporteur considers it unacceptable that this report, in previous years ranging in length from 130 to 170 pages, should be reduced to 32 pages. However, the Special Rapporteur has done his utmost to reduce the length of the report. As a consequence, details on activities undertaken during the year on individual cases and urgent appeals sent to Governments, as well as on replies or comments received from Governments, could not be reflected in the report in a satisfactory manner. The Special Rapporteur feels that the restrictions imposed are seriously affecting the way the mandate is being carried out, and that he is prevented from reporting to the Commission on Human Rights in a responsible way. He has brought his concerns to the attention of the High Commissioner for Human Rights as well as other decision-making bodies within the United Nations system, and calls on the Commission on Human Rights to take his remarks into consideration when considering the report, and to try to find a suitable solution to this problem.

## Introduction

4. The present report, the thirteenth report since the mandate was established in 1982, is the fourth report presented by Mr. Bacre Waly Ndiaye, and is submitted pursuant to Commission on Human Rights resolution 1995/73 entitled "Extrajudicial, summary or arbitrary executions", which was adopted without a vote on 8 March 1995.

5. The present report is divided into four chapters. Chapter I contains the terms of reference of the mandate and describes recent developments in the Special Rapporteur's methods of work. Chapter II is related to activities carried out by the Special Rapporteur in the framework of his mandate, between 25 November 1994 and 25 November 1995. Chapter III describes 94 country-specific situations in which the Special Rapporteur has taken action in the period under consideration. Conclusions and recommendations to improve respect for the international instruments and standards which form the legal basis for the mandate are set out in chapter IV of the report.

6. With regard to the situation of the right to life in Burundi and to the Papua New Guinea island of Bougainville, findings, conclusions and recommendations of the Special Rapporteur, made on the basis of field visits carried out in April 1995 and October 1995 respectively, are contained in two addenda to the present report. (E/CN.4/1996/4/Add.1 and Add.2)

## I. THE MANDATE

### A. Terms of reference

7. Resolution 1995/73 of the Commission on Human Rights requests the Special Rapporteur "to continue to examine situations of extrajudicial, summary or arbitrary executions". The same resolution requests the Special Rapporteur "to continue to pay special attention to extrajudicial, summary or arbitrary executions of children and women and to allegations concerning violations of the right to life in the context of violence against participants in demonstrations and other peaceful public manifestations or against persons belonging to minorities". In addition, the Commission also requests the Special Rapporteur to continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment (...)".

8. In other resolutions adopted by the Commission on Human Rights at its fifty-first session, special rapporteurs are requested to pay particular attention to certain issues within the framework of their mandates. Those resolutions are the following: resolution 1995/24 entitled "Rights of persons belonging to national or ethnic, religious and linguistic minorities"; resolution 1995/40, entitled "Right to freedom of opinion and expression"; resolution 1995/41, entitled "Human rights in the administration of justice, in particular children and juveniles in detention"; resolution 1995/43, entitled "Human rights and terrorism"; resolution 1995/53, entitled "Advisory services and the Voluntary Fund for Technical Cooperation in the Field of Human Rights"; resolution 1995/57, entitled "Internally displaced persons"; resolution 1995/75, entitled "Cooperation with representatives of United Nations human rights bodies"; resolution 1995/79, entitled "Rights of the Child"; resolution 1995/80, entitled "Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action"; resolution 1995/85, entitled "The elimination of violence against women"; resolution 1995/86, entitled "Question of integrating the human rights of women into the human rights mechanisms of the United Nations"; and resolution 1995/88, entitled "Human rights and mass exoduses".

9. In carrying out his mandate, the Special Rapporteur has taken into account the requests made by the Commission on Human Rights in the above-mentioned resolutions, in particular when evaluating and analysing the information that comes before him.

### B. Extrajudicial, summary or arbitrary executions

10. Since the creation of the mandate in 1982, action has been undertaken in a variety of situations. During the period under consideration, the Special Rapporteur has taken action in the following cases:

(a) Violations of the right to life in connection with the death penalty. The Special Rapporteur has intervened when capital punishment is imposed after an unfair trial, or in case of a breach of the right to appeal or the right to seek pardon or commutation of sentence. In addition, he intervenes if the convicted is a minor, a mentally retarded or insane person, a pregnant woman or a recent mother. In general, he undertakes action when laws that are applied or trial procedures fall short of international standards, in particular the Safeguards for guaranteeing protection of the rights of those facing the death penalty, or article 6 of the International Covenant on Civil and Political Rights (ICCPR);

(b) Death threats and fear of imminent extrajudicial executions by State officials, paramilitary groups, private individuals or groups cooperating with or tolerated by the Government, as well as unidentified persons who may be linked to the categories mentioned above;

(c) Deaths in custody owing to torture, neglect or the use of force, or life-threatening conditions of detention;

(d) Deaths due to the use of force by law enforcement officials, or persons acting in direct or indirect compliance with the State, when the use of force is not in keeping with the criteria of absolute necessity and proportionality;

(e) Deaths due to attacks by security forces of the State, by paramilitary groups, death squads or other private forces cooperating with or tolerated by the Government;

(f) Violations of the right to life during armed conflicts, especially of the civilian population, contrary to humanitarian law;

(g) Expulsion or refoulement of persons to a country where their lives are in danger, including involuntary repatriation and return to a previous host State, as well as closure of national borders to prevent refugees from entering;

(h) Genocide;

(i) Breach of the obligation to investigate alleged violations of the right to life and to bring those responsible to justice;

(j) Breach of the obligation to provide compensation to victims of violations of the right to life.

## C. Methods of work

11. In resolution 1995/73, entitled "Extrajudicial, summary or arbitrary executions", the Commission on Human Rights requests the Special Rapporteur to "continue to examine situations of extrajudicial, summary or arbitrary executions (...)"; to respond effectively to information which comes before him, in particular when an extrajudicial, summary or arbitrary execution is imminent or threatened or when such execution has occurred". In the same resolution the Commission requests the Special Rapporteur "to enhance further

his dialogue with Governments, as well as to follow up on recommendations made in reports after visits to particular countries". In addition, resolution 1995/87, entitled "Human rights and thematic procedures" invites thematic special rapporteurs to include in their annual reports information provided by Governments on follow-up action; encourages them to follow closely the progress made by Governments in the investigations carried out under their mandates; further encourages them to closely cooperate with relevant treaty monitoring bodies and country rapporteurs.

12. Based on these provisions the Special Rapporteur has continued to transmit to the Governments concerned allegations of violations of the right to life (urgent appeals transmitted by fax, or individual case summaries sent by mail), as well as follow-up letters to such communications. For a detailed analysis of the Special Rapporteur's methods of work, reference is made to his report to the fiftieth session of the Commission on Human Rights (E/CN.4/1994/7, paras. 13-67). During 1995, the Special Rapporteur has adopted some innovations with regard to his methods of work, which include:

(a) Joint urgent appeals. In view of resolution 1995/87 entitled "Human rights and thematic procedures" in which special rapporteurs and working groups were encouraged to cooperate closely with relevant treaty monitoring bodies and country rapporteurs, joint urgent appeals have been sent to Governments when issues of concern fell within the mandate of more than one special rapporteur or working group. In 1995, the Special Rapporteur participated in 14 joint urgent appeals with other experts of the Commission on Human Rights to the following countries: Burundi (2), Colombia (1), Cuba (1), Islamic Republic of Iran (1), Israel (1), Nigeria (2), Peru (1), Russian Federation (1), Sudan (1), Turkey (2) and United Republic of Tanzania (1). For further details, reference is made to the corresponding country chapters in the present report;

(b) Questionnaire for sources. Under the same resolution, non-governmental organizations are invited to continue their cooperation with thematic procedures, and to ascertain that the material provided falls under the mandate of these procedures. To facilitate this, the Special Rapporteur has proposed a questionnaire to enable him to collect details essential for the processing of individual cases concerning violations of the right to life. The Special Rapporteur expresses the wish that sources will make extensive use of this new questionnaire which will allow the information received to be processed in a more effective way;

(c) Definition of priorities for action. Due to the increasing number of cases and information of a more general nature brought to the attention of the Special Rapporteur, as well as the lack of human resources available to the Special Rapporteur, priority will be given to cases of violations of the right to life which have reportedly occurred since 1992.

## II. ACTIVITIES

### A. Consultations

13. The Special Rapporteur visited Geneva from 20 February to 1 March 1995. On 28 February he presented his report to the Commission on Human Rights. He

also visited Geneva from 22 to 26 May 1995, from 18 to 22 September 1995, and from 20 to 24 November 1995 for consultations with the Secretariat. During his visits to Geneva he consulted with a number of thematic and country special rapporteurs, representatives and members of working groups of the Commission on Human Rights, the High Commissioner for Human Rights and the Assistant Secretary-General for Human Rights. He also met with representatives of Governments and non-governmental organizations to discuss issues related to the violation of the right to life in specific countries. Furthermore, the Special Rapporteur participated in the meeting of special rapporteurs which was held in Geneva from 29 to 31 May 1995.

## B. Communications

14. Between 25 November 1994 and 25 November 1995, the Special Rapporteur transmitted to Governments allegations he had received concerning violations of the right to life 94 countries. The Special Rapporteur transmitted 151 urgent appeals on behalf of more than 452 identified and 791 unidentified individuals, an undetermined number of refugees, civilians in certain regions in various countries as well as members of several families and various indigenous communities. In addition, the Special Rapporteur transmitted 820 cases containing allegations of extrajudicial, summary or arbitrary executions, and sent follow-up letters to 26 countries. During the same period, he received replies from 41 Governments.

15. While the Special Rapporteur thanks the Governments concerned for the replies provided, he is concerned that despite the existence of a "reply form" for cases of alleged extrajudicial, summary or arbitrary executions used in letters which transmit cases, some Governments have not followed the specific requests made in the forms. Consequently, considerable difficulties arose in the processing of information received within the time available before the finalization of the report.

## C. Visits

16. In 1995 the Special Rapporteur undertook a visit to Burundi and to the Papua New Guinea island of Bougainville. The Special Rapporteur's reports on these visits, are published in the form of two addenda to the present report. (E/CN.4/1996/4/Add.1 and Add.2)

17. To date, the Special Rapporteur is in possession of standing invitations for a visit from the Governments of Algeria, Azerbaijan, Gabon, Sri Lanka, and an invitation for a follow-up visit to Colombia. Negotiations with the Governments of Bangladesh, India, Liberia and Turkey for a possible visit are ongoing. During 1995 the Special Rapporteur requested an invitation to visit Mexico and reiterated his wish to visit China, Tajikistan and the United States of America to examine *in situ* violations of the right to life. He also requested the Government of Nigeria to extend an invitation to visit Nigeria jointly with the Special Rapporteur on the independence of judges and lawyers. To date no invitation has been received. For further details reference is made to the corresponding country chapters of this report.

## D. Cooperation with United Nations procedures

18. During the period under review the Special Rapporteur has actively participated in the effort to increase the coordination between different United Nations procedures. The innovative practice of joint urgent appeals with different thematic and country rapporteurs, special representatives and chairpersons of working groups was already referred to above.

19. A meeting of special rapporteurs, special representatives, experts and chairpersons of working groups of the Commission on Human Rights was held from 29 to 31 May 1995, at which issues of common concern were discussed. The Special Rapporteur presented a paper during this meeting, on the relation between the High Commissioner for Human Rights and the special rapporteurs of the Commission on Human Rights. The results of this meeting are contained in a report prepared by the Special Rapporteur on the question of torture, who acted as rapporteur of the meeting. (E/CN.4/1996/50, annex)

20. A letter containing copies of allegations sent to the Permanent Mission of Liberia was sent to the United Nations Observer Mission in Liberia (UNOMIL), requesting its cooperation in obtaining information about the cases of alleged extrajudicial, summary or arbitrary executions and the situation with regard to the right to life in general. In the same letter the Special Rapporteur requested information about the mandate of UNOMIL and the Special Representative of the Secretary-General regarding investigations of human rights violations. However, no reply was received from UNOMIL.

21. During his visits to Burundi and the Papua New Guinea island of Bougainville, the Special Rapporteur benefited from the excellent cooperation of the Centre for Human Rights office in Bujumbura and of the United Nations Development Programme in Papua New Guinea. He greatly appreciated the assistance provided by observers of the Organization of the African Unity during his visit to Burundi, as well as the logistical support of United Nations Assistance Mission in Rwanda (UNAMIR).

22. In addition, contacts have been established with the Crime Prevention and Criminal Justice Branch of the United Nations Centre for Social Development in Vienna. After first contacts were made during the preparation process of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which was held in Cairo from 29 April to 8 May 1995, the exchange of reports between the Special Rapporteur and the Crime Prevention and Criminal Justice Branch has become a regular and very helpful practice.

## E. Other activities to promote the mandate

23. Aiming at increased awareness of the mandate, the Special Rapporteur gave a number of press conferences during his visits to Burundi and the Papua New Guinea Island of Bougainville. In addition, during 1995, at the request of the Special Rapporteur six press releases were issued with the aim of publicizing certain activities of the Special Rapporteur, and to inform the general public of his concern about some specific country situations. He also gave a number of radio and television interviews for the British Broadcasting Corporation (BBC), Africa Numéro 1, Radio France International, the Australian Broadcast Corporation, and to newspapers from Germany, the Netherlands,

Senegal and Switzerland. In addition, the Special Rapporteur participated in a round-table discussion, televised by CNN, which was organized in Geneva by the United States delegation during the fifty-first session of the Commission on Human Rights.

24. Furthermore, he consulted in Praia, Cape Verte, with African non-governmental organizations and members of the African Commission on Human and People's Rights. He consulted also with the Special Rapporteur on extrajudicial, summary or arbitrary executions appointed by the African Commission in order to share views on the respective mandates and possibilities of cooperation. He also participated in the Xème Conférence internationale des Barreaux de tradition juridique commune, which was held in Paris, during which the issue of lawyers and international jurisdictions was extensively discussed.

25. During the period under review, the Special Rapporteur was invited to participate in the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Cairo and a conference on prevention of genocide organized by the Government of Rwanda, as well as to give several speeches in different European and Asian universities about his mandate. He regrets, however, that due to both his busy schedule, in particular his activities as a member of the Truth and Justice Commission in Haiti, as well as the financial constraints within the United Nations, he was unable to participate in these activities.

## III. SITUATIONS

### A. General

26. This chapter gives an account of actions undertaken by the Special Rapporteur between 25 November 1994 and 25 November 1995, on the basis of reports and allegations concerning violations of the right to life, from a variety of sources. It also describes the replies received from Governments to his communications and, where appropriate, contains observations and comments of the Special Rapporteur.

27. The dates of the communications are included in parenthesis, unless otherwise stated. Communications described as "allegations transmitted" or "cases sent" were transmitted to the Government on various occasions during the year, mainly in May, September and October 1995. The follow-up section includes those letters sent to the Governments requesting further details on the allegations, and reminders of cases to which the Government has not yet provided a reply. Communications from the Governments which have reached the Special Rapporteur's office after 25 November 1995 will be included in his report to the Commission on Human Rights at its fifty-third session.

28. Owing to restrictions on the length of this document, the Special Rapporteur has been obliged to reduce significantly details of communications sent and received. In many of the cases, only the names of the victims are listed and a short reference to the Government's reply is reflected in the report. In this context, the Special Rapporteur would like to refer to requests received from some Member States to publish, as part of his report, extensive responses regarding specific cases and other matters. These

requests could not be acceded to due to the severe limitations applied to the length of his report. However, this information is available for consultation through the offices of the secretariat of the Commission.

## B. Country situations

### Afghanistan

29. The Special Rapporteur sent a letter to remind the Government of Afghanistan that no reply had yet been received in the case of Mir Wais Jalil, a BBC World Service journalist, allegedly found dead after having been abducted in Kabul on 29 July 1994, which had been sent to the Government in September 1994 (22 August 1995). By the time the present report was finalized, no reply had been received from the Government. With regard to an analysis of the situation prevailing in Afghanistan, reference is made to the report of the Special Rapporteur on the situation of human rights in the country. (E/CN.4/1996/64)

### Algeria

30. The Special Rapporteur received reports concerning the continuing violence and violations of the right to life in Algeria. Three journalists, including whom two women, were reportedly victims of extrajudicial, summary or arbitrary executions and a considerable number of students and prisoners were reportedly killed in different incidents.

#### Allegations transmitted

31. The Special Rapporteur sent one urgent appeal to the Government, concerning a death sentence handed down on Lembarek Boumarafi by the cour criminelle (criminal court) in Algers for the assassination of President Boudiaf on 29 June 1992. According to the allegations received, his trial had not been in conformity with international standards for a fair trial. He had reportedly not been allowed to choose his own lawyer, and the appointed lawyers reportedly did not have access to all the documents. He allegedly did not have the right to a full review of his sentence by a higher jurisdiction, since the sentence could only be reviewed in cassation by a final court of appeal, the Tribunal suprême (Supreme Court) (6 June 1995).

32. The Special Rapporteur transmitted to the Government the cases of alleged killings of the following three journalists: Yasmine Drici, journalist of Soir d'Algerie, reportedly found strangled after arrest; Azzedine Saidj, editor of the newspaper El Ouma, reportedly found strangled; Malika Sabour, journalist of the weekly Echouroute Al-Arabi, reportedly killed by men in police uniforms.

33. The Special Rapporteur also transmitted to the Government the following 11 cases of extrajudicial, summary or arbitrary executions, concerning the deaths of 149 persons: alleged killings by security forces: Fatah Mizreb and 20 unidentified persons, reportedly killed in Algers; 5 unidentified young persons, reportedly found dead in a square in the area D'Ain Naja in Algers; Kouider Melal and 3 unidentified persons reportedly found dead in El Ataf; Rebai Rabah, whose dead body was reportedly

found in a field, bearing signs of torture; alleged deaths in custody: Fouad Bouchelaghem, professor at the University of Blida, reportedly killed in the detention centre of Chateauneuf; 96 unidentified prisoners, reportedly killed on 22 or 23 February 1995 during a mutiny in the Serkadji prison; 10 students including Dahab Omar, Derouiche Abdelbassat, Rahal Abderrazak, Mahadda Salah, Aouinet Abdelkader, Djerad Abdelkader, Arhouma Saad, Maatallah Abdelbaki, Nazli Abdelkamel and Saci Tahar, as well as their professor Khuoider Messaoud, reportedly killed in the detention centre of Annaba; death sentences passed after alleged unfair trials: 7 unidentified persons, reportedly executed in Algers on 31 August 1993, whose declarations were reportedly extracted under torture.

Communications received

34. The Government provided a reply in the case of Lembarek Boumarafi, stating that he had been assigned several defence lawyers by the Bâtonnier de l'ordre des Avocats d'Alger, at the request of the President of the tribunal criminel, after Mr. Boumarafi had reportedly refused to choose one himself. The Government informed the Special Rapporteur that lawyers did have access to the file. The Government furthermore explained that cassation by the Cour suprême was in conformity with the international standards, guaranteeing the right to have a sentence reviewed by a court of higher jurisdiction (10 July 1995).

35. The Government submitted a document to the Special Rapporteur on 23 November 1995, containing replies to the cases transmitted to the Government in 1995. The Government stated that the case of seven unidentified persons had been dealt with in a previous report to the Commission on Human Rights. The Government also informed the Special Rapporteur about the case of Moussa Bouchelaghem who, upon arrest by the police, had confessed to being a member of a terrorist organization and killed trying to flee from custody as he was being taken to the hide-out of his accomplices. Concerning the case of Rebai Rabah, the Government stated that he had never been interrogated by the security forces, nor had the family filed a complaint. However, an investigation by the security forces and the gendarmerie was opened. With regard to the case of 11 students and their professor, the Government brought to the Special Rapporteur's attention that they belonged to an armed terrorist group. In relation to the death of Kouider Melal and three unidentified persons the Government informed the Special Rapporteur about the identity of the other three persons and stated that no official complaint had been filed by the family of the deceased. An investigation into their deaths was being carried out. The Government also brought to the Special Rapporteur's attention the fact that the security forces had never found five dead bodies of youths in the area of Ain-Naadja, as alleged. Concerning the deaths of the three journalists mentioned above, the Government stated that they had been killed by terrorists.

36. The Government transmitted to the Special Rapporteur an extensive reply with regard to the incident at the Serkadji prison; several investigations into the incident had been started. The Special Rapporteur will transmit this information to the sources and will comment on the information received from the Government at a later stage.

37. The Government also provided the Special Rapporteur with a copy of Ordonnance 95-12 of 25 February 1995, concerning clemency measures for persons prosecuted for the crime of terrorism or subversion (3 April 1995).

Observations

38. The Special Rapporteur wishes to thank the Government for the detailed information provided and its willingness to cooperate with the mandate. However, he remains concerned about the climate of violence that reigns in Algeria, in view of the numerous allegations he received throughout the year related to summary executions by security forces. He also remains concerned about the number of political killings, especially of women, journalists, students and teachers, by members of armed Islamic groups, that have been brought to his attention. The Special Rapporteur is deeply concerned about the violence against people who expressed criticism at the ongoing violence resulting in killings of journalists, intellectuals, teachers and students, and finds these reports particularly disturbing.

39. The Special Rapporteur would like to bring to the attention of the Government of Algeria the procedure of cassation which does not conform to the international norms concerning the right of a convicted person to have his sentence reviewed by a higher jurisdiction. The current procedure provides a review of the legal aspects of the case, but excludes a review as to the facts. The Special Rapporteur would like to point out that in the French legal tradition, on which the Algerian system of cassation is based, steps are being taken to review the traditional system in order to allow the establishment of an appeal procedure in criminal cases falling within the jurisdiction of the Cour d'assises which will allow a review of both the legal aspects as well as the facts of a case. He appeals to the Government of Algeria to revise its legislation so as to make it conform to the relevant international standards.

40. The Special Rapporteur would also like to express his hope that the outcome of the presidential elections which were held in November 1995 will result in a continuation of the dialogue between the Government and all opposition parties, and efforts will continue towards negotiations with a view to ending the armed confrontation and violations of human rights resulting therefrom. He moreover calls upon the Government to ensure that a climate more favourable to respect for human rights will be created in Algeria as part of a return to peace and security.

## Angola

41. The Special Rapporteur continued to receive reports about violations of the peace agreements, by both the Government and UNITA, including the laying of additional land-mines. The Special Rapporteur also continued to receive reports about death threats received by several journalists.

Allegations transmitted

42. The Special Rapporteur forwarded the following case to the Government: Ricardo De Mello, director of the Impartial Fax Newsletter, reportedly killed in Luanda on 18 January 1995, by members of the security forces who arrested

him after he had reportedly published an article about UNITA and its leader Mr. Savimbi, and after having announced death threats received by several journalists.

Communication received

43. The Government provided the Special Rapporteur with a reply to cases sent in 1995. In the case of Ricardo de Mello, the Government stated that the police has carried out an investigation but so far the killers could not be identified (22 October 1995).

Observations

44. The Special Rapporteur thanks the Government of Angola for the information provided in the reply and the willingness to cooperate with the mandate. He hopes that the signing of the UNAVEM III agreement in May 1995 will contribute to an improvement of the human rights situation in Angola. However, the situation remains a matter of great concern, in particular allegations concerning extrajudicial, summary or arbitrary executions of unarmed civilians as well as of journalists. The Special Rapporteur expresses his wish that more attention will be paid to human rights in the peace process, in particular to issues regarding the prevention of violations, human rights education and impunity, both at a national level and at the level of the United Nations, especially within the human rights division of UNAVEM III.

## Argentina

Allegations transmitted

45. The Special Rapporteur sent two urgent appeals to the Government of Argentina, in which he expressed concern for the safety of the following persons: María Alejandra Bonafini, daughter of the President of the organization Mothers of the Plaza de Mayo, after she had reportedly received death threats in relation to her mother's work (5 April 1995); Mabel Cristina Laguens de Rodríguez, Felipe Rodríguez Laguens and Dr. Federico Huber, relatives and lawyer of Diego Rodríguez Laguens, a 26-year-old engineer reportedly killed in custody in San Pedro Jujuy in February 1994. Fears for their safety were expressed particularly at the beginning of the oral public proceedings of the trial for the murder of Diego Rodríguez Laguens (30 October 1995) (E/CN.4/1995/61, para. 54).

Follow-up

46. The Special Rapporteur sent a letter reminding the Government of the aforementioned urgent appeal sent on behalf of Alejandra Bonafini, to which no reply had not yet been received (21 August 1995).

Communications received

47. The Government of Argentina then replied to the urgent appeal sent on behalf of Alejandra Bonafini, stating that investigations into the case had been initiated by competent authorities (27 September 1995). Regarding the

case of Diego Rodríguez Laguens, the Government provided a copy of a letter dated 25 November 1994, the content of which was reflected in last year's report (E/CN.4/1995/61, para. 55).

## Armenia

### Allegations transmitted

48. The Special Rapporteur sent to the Government the following two cases, relating to the death of nine persons: Ardavast Manukian, member of the Armenian Revolutionary Federation, the main opposition party, who reportedly died in the Interior Ministry Hospital on 16 May 1995, whilst in custody of the National Security Agency; eight unidentified prisoners of war of Azerbaijani nationality, who reportedly died in the Armenian Ministry of Defence prison in Yerevan, on 29 January 1994.

### Observations

49. The Special Rapporteur regrets that by the time the present report was finalized, no reply had been received from the Government.

## Azerbaijan

50. The Special Rapporteur sent the following two cases to the Government of Azerbaijan, concerning the reported deaths of two persons after arrest: Djavadov Rovshan Bahtiarovich, Vice-Minister of the Interior, who reportedly died in a hospital on 17 March 1995, as a result of injuries sustained after an alleged attack against his residence, by presidential troops; Shamardan Jafarov, Member of Parliament, representing the opposition party Popular Front of Azerbaijan, who reportedly died whilst in a prison hospital in Baku, on 29 June 1995, allegedly after having been shot by the police.

## Bahrain

51. The majority of the reports received by the Special Rapporteur with regard to violations of the right to life in Bahrain were related to demonstrations that occurred throughout the country between December 1994 and April 1995. The demonstrations were held to ask for the release of political prisoners, to request the reinstallation of the National Assembly, which was reportedly dissolved in 1975, and for the Government to respect the 1973 Constitution.

### Allegations transmitted

52. The Special Rapporteur sent an urgent appeal to the Government of Bahrain, concerning the alleged killing of Nidal Habib Ahmad a-Nashaba by security forces, during a demonstration on 4 May 1995, in al-Duraz, which was held to commemorate the fortieth day after the killing of the 17-year-old 'Abd a-Hamid 'Abdullah Qassem, who was reportedly killed by security forces on 25 March 1995. The Special Rapporteur requested information regarding both cases, and asked the Government of Bahrain to take measures to prevent the recurrence of similar incidents (12 May 1995).

53. The Special Rapporteur also sent the following 15 cases: alleged killings by police: Mirza Ali Abdul Redha, reportedly killed by riot police during an attack on a mosque in Jed Hafs, on 20 December 1994; alleged killings by security forces during a demonstration: Bader Habib and Hani al-Wasti, Hani Abbas Khamis, Haj Mirza Ali, Hussain Kanbar, Abdul Qader Mohsin a Fatlawi, Sakina al Ghanmi and Rida Mansur A-Haji, Hussain al-Safi, Hamid Abdulla Y. Qassim, Mohammad Jaffar Yousif Twaig and Mohammed Ali Abdul Razaq; alleged deaths in custody: Saeed Abdul Rasool al-Iskafi, aged 16 years, who reportedly died after torture and sexual abuse on 8 July 1995, whilst in custody in A-Khamis police station.

Follow-up

54. The Special Rapporteur sent a follow-up letter, reminding the Government of Bahrain of the urgent appeal and the cases that had been transmitted earlier in the year (22 August 1995).

Communications received

55. The Government provided the Special Rapporteur with a reply to the urgent appeal and cases sent earlier in 1995, informing the Special Rapporteur that the allegations received were being examined and further information would be made available as soon as the investigations were finished. The Government stated that the violence which had occurred between December 1994 and April 1995 was a result of foreign-backed terrorist activities. The Government also informed the Special Rapporteur that the situation had been quiet for some time, and that at the time when the reply was received, a number of rallies of unprecedented size and volatility had been held without any incident (15 November 1995).

Observations

56. The Special Rapporteur appreciates the willingness to cooperate with the mandate shown by the Government of Bahrain in providing him with the above-mentioned reply. However, he wishes to express his concern about the number of allegations he has received relating to extrajudicial, summary or arbitrary executions that occurred in Bahrain in 1994 and 1995. He expresses the hope that all necessary measures will be taken by the Government of Bahrain in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in order to prevent further killings of demonstrators. The Special Rapporteur also hopes that perpetrators of human rights violations will not enjoy impunity and that victims will be compensated. In addition, the Special Rapporteur expresses his deep concern about the alleged death of a minor during detention.

## Bangladesh

57. The Special Rapporteur received allegations of extrajudicial, summary or arbitrary executions carried out by soldiers of Bangladesh against persons of Chakma origin on several occasions in 1994. He furthermore received information about a reported killing of a student from the Chittagong Hill Tracts, killed by State forces during a student demonstration in March 1995.

Allegations transmitted

58. The Special Rapporteur forwarded the following cases to the Government containing allegations of killings of four people of Chakma origin by soldiers: Ghana Alo Chakma, reportedly shot dead in the Rangamati District; Lal Rijot Bawm, reportedly shot dead in the Bandarban district; Bhanu Mati Chakma (female), reportedly raped and stabbed to death by soldiers at an army camp in Bamer Longadu. He also transmitted allegations concerning the death of Umaung Prue Marma, student from the Chittagong Hill Tracts and member of the Hill Student Council, reportedly killed on 15 March 1995 during a demonstration in Bandarban, when State forces opened fire on the crowd. Furthermore, the Special Rapporteur transmitted the case of one unidentified person, allegedly a member of the Shaniti Bahini, the armed wing of the political party Jana Sanghati Samiti (People's Solidarity Association), who was reportedly killed by the armed forces near Bali Bazar.

Communications received

59. The Government replied in the case of the death of Gnana Alo Chakma, and stated that this was a result of accidental firing by a soldier, against whom unspecified disciplinary measures had been taken. The family had withdrawn the case from the police after an investigation had been carried out by local police and security forces, and they were awarded compensation for buying land. The Government informed the Special Rapporteur about the death of Lal Rijot Bawm in which investigations did not lead to identification of the perpetrators. The family of the victim had been paid a certain amount of money as a humanitarian grant. In addition, the Government stated that the allegations of the killing of a member of the Shanti Bahini on 20 May 1994 were without any basis (17 August 1995).

60. The Government acknowledged receipt of the allegations sent by the Special Rapporteur on 13 October 1995 (8 November 1995).

Observations

61. The Special Rapporteur thanks the Government of Bangladesh for the information provided in its replies and hopes once more that the authorities may reconsider their refusal to invite him to visit Bangladesh. He expresses concern at allegations about continuing violations of the right to life in Bangladesh, although he received only enough detailed information to act upon in one individual case that occurred in 1995. He also remains concerned about reports indicating that the indigenous population, in particular the population of the Chittagong Hill Tracts, continues to be victims of violence. With regard to the information provided by the Government concerning compensation paid to family members of the deceased, the Special Rapporteur would like to emphasize that such compensation could never be a substitute for a proper judicial process. He calls upon the Government to continue its fight against impunity and to take measures to ensure that human rights violations do not recur.

## Belarus

62. The Special Rapporteur was informed about the secrecy surrounding the application of the death penalty in Belarus. It was brought to his attention that the date of execution is generally not made public, and relatives of those convicted and sentenced are reportedly not notified in advance. The Special Rapporteur, however, did not receive enough detailed information to intervene in individual cases.

### Observation

63. The Special Rapporteur wishes to emphasize that the right to a public trial forms part of the standards of a fair trial. He therefore calls upon the Government of Belarus to adapt its legislation to conform with international standards for a fair trial.

## Bolivia

### Allegations transmitted

64. The Special Rapporteur transmitted to the Government of Bolivia the case of Felipe Pérez, who was reportedly killed by members of the police in August 1994.

### Communications received

65. The Special Rapporteur was informed that an estado de sitio (state of emergency) had been declared on 18 April 1995, in accordance with articles 111, 112 and 96 of the Constitution. It was imposed because of the continuing strikes, blockades and acts of violence committed against persons, property, public order and social peace, reportedly by trade union movements and private individuals (20 April 1995).

### Follow-up

66. The Special Rapporteur sent a follow-up letter to remind the Government that no reply had been received on the case of Felipe Pérez (22 August 1995). By the time the present report was finalized, no reply had been received from the Government.

## Botswana

67. The Special Rapporteur received information about civil unrest and violent confrontations which reportedly occurred in November 1994 and early 1995. The Special Support Group (SSG), a paramilitary force, which is generally used in case of civil unrest, was reported to have repeatedly used excessive force against demonstrators and other civilians who had not been involved in any violent activities.

68. The Special Rapporteur transmitted one case to the Government of Botswana, concerning the alleged killing of Binto Moroke, 17 years of age, who was reportedly killed after being beaten up on 19 February 1995, by six members of the SSG in Mochudi.

Observations

69. The Special Rapporteur regrets to note that by the time the present report was finalized, no reply had been received from the Government. He appeals to the Government to take appropriate measures to prevent the recurrence of deaths due to excessive use of force against demonstrators, and to investigate the allegations.

Brazil

70. The Special Rapporteur continued to receive reports concerning violations of the right to life in Brazil, particularly in the context of land disputes in rural areas. Information about the excessive use of force by military police against squatter peasants was also brought to his attention. Allegations of threats and harassment of human rights workers, and particularly members of the judiciary investigating crimes committed by military police, have also been received.

71. Street children allegedly continue to be targeted by death squads, reportedly composed of off-duty military and civil police officers and at times supported by local police. In this context, it is reported that recent jurisprudence of the Federal Supreme Court has established that in matters of crimes against children, the competent courts are the civilian tribunals even if the perpetrator is a military officer. However, it is alleged that only a few of those allegedly responsible for the killings are brought to justice and that a large number of crimes continue to go unpunished.

Allegations transmitted

72. The Special Rapporteur sent eight urgent appeals calling on the authorities to adopt all necessary measures to guarantee the protection of the lives of the following persons:

(a) Wagner Dos Santos, a key witness to the Candelaria massacre, after he was reportedly found unconscious near Rio de Janeiro's railway station, with several bullet wounds (22 December 1994). Two other urgent appeals were sent on his behalf, after receiving additional information that he was subjected to threats and harassment (5 April 1995 and 11 October 1995);

(b) Adao Soares, Joao Andre and other members of the Macuxi indigenous community, after tensions rose between them and the military police of the State of Roraima over a protest at the construction of a hydroelectric dam which may affect the Macuxi land (24 January 1995);

(c) Bartolomeu Homem D'El-Rei Pinto, Rutonio Jorge F. de Sant'Anna, and other members of the Asociaçao Dos Servidores da Fundaçao Biblioteca Nacional, after receiving death threats in relation to their investigations into the disappearance of a colleague, Marcos Antonio Rufino da Cruz (7 April 1995);

(d) Public prosecutors Mauricio Assayag, José Muiños Piñeiro and judge Maria Lucia Capiberibe, who reportedly received death threats in relation to their role in court proceedings against military and civilian

police accused of the Vigario Geral massacre, where 21 persons were killed (13 July 1995). Another urgent appeal was transmitted on behalf of Franco Canvea Jr., Fernando César Nucci and Stella Kuhlmann, public prosecutors at the military courts in São Paulo, after they reportedly received death threats because of their work as prosecutors of military police officers involved in human rights violations (3 August 1995);

(e) Caio Ferraz, administrator of Casa da Paz, in the Rio de Janeiro shanty town of Vigario Geral, Elias Lizardo Da Cunha and other residents of Vigario Geral, after receiving death threats and being harassed, allegedly by police officers.

73. In addition, the Special Rapporteur transmitted the alleged cases of extrajudicial, summary or arbitrary executions of Vanessa dos Santos Silva (7 years old), Nelsi Ferreira, Enio Racha Borges, José Marcondes da Silva, Ercilio Oliveira de Campo, Odilson Feliciano, Ari Pinheiro Santos, Sergio Rodriguez Gomes and two other unidentified persons, all of them squatter peasants in Corumbiara, Rondonia State, reportedly killed on 9 August 1995 during a confrontation between State military police after a reported unsuccessful attempt by military police to carry out an eviction order.

Communications received

74. The Government provided an additional reply regarding the case of Reinaldo Silva, which had been raised with the Government in 1993. According to the reply, a military police inquiry was opened to investigate the killing and the case had been referred to the State military court (29 April 1995).

75. The Government also provided information concerning Wagner dos Santos. According to the Government, special protection by the policia militar (military police) was granted to him 24 hours a day and he was transferred to another hospital. According to the information received, the trial against those accused of the Candelaria massacre would take place at the end of the first semester of 1995. It furthermore stated that recent threats received by Wagner dos Santos were under investigation (18 April 1995). Additional details on the judicial developments of the Candelaria case were also provided to the Special Rapporteur (6 July 1995). Furthermore, in a communication dated 15 November 1995, the Government reiterated that Wagner dos Santos was under police protection.

76. Concerning death threats received by prosecutors Mauricio Assayag, José Munhoz Pinheiro and judge Maria Luiza Capiberibe, the Government declared that they had been put under police protection (21 July 1995).

77. Regarding the violent events which took place in Santa Elina estate, in Corumbiara, Rondonia, the Special Rapporteur was informed that the Government of the State of Rondonia ordered the opening of a police inquiry to determine whether criminal actions had been committed and, if this was the case, to identify those responsible. A military police inquiry was also ordered to examine the legality of the behaviour of police involved in the operation. According to the Government, despite the fact that inquiries are under way, it appears that there was a "loss of control and arbitrariness on the part of the soldiers"; however, definite conclusions can be drawn only after the

investigations have been concluded. The Government also reported that the Secretary of State for Public Security of the State of Rondonia, who was considered to be principally responsible for the operation, has been removed from office (2 October 1995 and 16 November 1995).

Follow-up

78. The Special Rapporteur thanked the Government for the replies provided and requested more details about the proceedings in the case of Reinaldo Silva, and the status of inquiries into the threats received by Wagner dos Santos. The Special Rapporteur also reminded the Government of the cases for which a reply had not yet been received (22 August 1995).

Observations

79. The Special Rapporteur wishes to thank the Government of Brazil for the willingness to cooperate with his mandate and welcomes the progress made so far by the Government in its fight against impunity. He remains concerned, however, at the allegations about violations of the right to life in the context of land conflicts and "social cleansing". Precedents regarding the competence of civil tribunals in cases of killings of street children committed by police officers are highly welcome. Nevertheless, he wishes to emphasize that reports of endemic impunity continue to reach his office. In this connection, he wishes to remind the Government of its obligation under international law to bring those responsible for human rights violations to justice and urges the Brazilian authorities to increase their efforts to put an end to impunity, particularly by law enforcement officials.

80. The Special Rapporteur is particularly concerned about the allegations of harassment of members of the judiciary, prosecutors, lawyers and witnesses of human rights violations. He calls on the authorities to take all necessary measures to ensure that those involved in the judicial process may exercise their functions freely under the protection of the State without being subjected to intimidation, in accordance with the guarantees contained in the Basic Principles on the Role of Lawyers, the Guidelines on the Role of Prosecutors and the Basic Principles on the Independence of the Judiciary. In particular, he expresses deep concern in respect of the threats and attacks continuously suffered by Wagner Dos Santos, witness of the Candelaria massacre, particularly as such attacks took place while he was already under State protection.

## Bulgaria

81. The Special Rapporteur sent the following two cases to the Government of Bulgaria, concerning allegations of extrajudicial, summary or arbitrary executions: Angel Angelov, of Roma origin, reportedly shot dead on 20 March 1995 by a police officer in the Roma neighbourhood of Nova Zagora, in the district of Sliven; Lyubcho Sofiev Terziev, also of Roma origin, who reportedly died on 6 August 1994 at the police station of Kazanluk, while in police custody.

Observations

82. The Special Rapporteur regrets that at the time of the finalization of the report, no reply had been received from the Government. He expresses concern about reports indicating that persons belonging to the Roma minority are the main victims of police violence, in particular of violations of the right to life. He calls upon the Government to take measures to prevent the occurrence of such violations, to investigate the allegations, and to provide victims with appropriate compensation.

Burkina Faso

83. The Special Rapporteur sent the following two cases to the Government of Burkina Faso, concerning alleged violations of the right to life of two persons, both students: Blaise Sidiani, 18 years old and Emile, 14 years old, allegedly killed during a demonstration by members of the security forces in Garango, on 9 May 1995.

Observations

84. The Special Rapporteur regrets that by the time the present report was finalized, no replies had been received from the Government. He urges the Government to take the necessary steps in order to prevent deaths due to the excessive use of force by security forces against demonstrators as referred to above. He wants to express his deep concern at the death of two young schoolboys under such circumstances in Garango. He calls upon the Government to take immediate steps to investigate the allegations, to prevent their recurrence and to provide compensation to families of the victims.

Burundi

85. The Special Rapporteur undertook a visit to Burundi from 19 to 29 April 1995 to examine violations of the right to life in that country. The findings, conclusions and recommendations of the Special Rapporteur can be found in the first addendum to the present report (E/CN.4/1996/4/Add.1). The Special Rapporteur's visit, which was conducted within the framework of his mandate, involved the examination of issues concerning violations of the right to life in that country.

86. For an in-depth analysis of the human rights situation in Burundi, the Special Rapporteur refers to the report presented to the Commission on Human Rights, by the Special Rapporteur on the situation of human rights in that country (E/CN.4/1996/16).

Allegations transmitted

87. The Special Rapporteur sent four urgent appeals to the Government of Burundi. He urged the authorities to ensure effective protection of the right to life of: Deógratias Sindaruhunga, of Hutu ethnic origin, reportedly arrested and transferred to a military camp in Bubanza where he was allegedly at risk of being killed (6 January 1995); civilian population targeted for ethnic killings, after receiving information that a large number of civilians had been killed in the context of disarmament and military

operations, specifically in the Bwiza, Buyenzi, Kinama and Kamenge suburbs of Bujumbura (12 June 1995 and 28 August 1995); Burundi and Rwandese refugees, after receiving information that they were being forcibly returned to Burundi by Tanzanian security forces, where they could risk summary execution. The same appeal was sent to the Government of the United Republic of Tanzania (6 July 1995). This urgent appeal was jointly sent with Mr. Nigel Rodley, Special Rapporteur on the question of torture.

Observations

88. The Special Rapporteur regrets that to date, no comment has been received from the authorities of Burundi to his report on the situation of the right to life in the country. It is therefore not known what measures have been adopted by the Government to implement the recommendations made by the Special Rapporteur after his visit.

89. The Special Rapporteur considers that the human rights situation in Burundi continues to be extremely serious, and are related to the prevailing abuses against the right to life which have taken root among Tutsi and Hutu communities, the infernal spiral of violence into which Burundi has been plunged, and impunity. Pervasive violence generated by armed militia and bands are also indicators of the general deterioration of the situation and the prevalent insecurity in Burundi. Violence is exacerbated by media incitement to racial hatred, particularly in the written press. Paralysis of the State institutions, specifically the judiciary, is generating impunity and continuation of violations.

90. The failure to take concrete measures with immediate effect by either the Burundian authorities or the international community in order to put an end to this violence and prevent its degeneration into genocide has also contributed to shaping the situation.

91. The Special Rapporteur welcomes the nomination by the Commission on Human Rights of a Special Rapporteur on the situation of human rights in Burundi, Mr. Paulo Sergio Pinheiro, and hopes that efforts by national authorities and the international community will help reduce the level of violence and lead to a climate of peace and security.

92. The Special Rapporteur is convinced that the situation in Burundi cannot be tackled in isolation and must be considered within the context of the regional conflicts which affect the countries of the Great Lakes region. For this reason he recommends extension to Burundi and to the whole Great Lakes region the field of competence of the International Tribunal on Rwanda. In this context, he would like to express his dismay at the grave and disturbing situation of Rwandese and Burundian refugees in Zaire, and appeals to the international community and the concerned Governments to find a solution to the problem, which is increasingly affecting the fragile situation in the central African region.

Cambodia

93. Reports received from sources in 1995 expressed concern about the weakness of the judicial structure in Cambodia as well as impunity enjoyed by

the military and security forces regarding human rights violations committed by them. The Special Rapporteur received allegations about intimidation of the judiciary by police and military officers, in order to thwart due process of law. With regard to an analysis of the situation prevailing in Cambodia, reference is made to the report of the Special Representative of the Secretary-General on the situation in the country (E/CN.4/1996/93).

Allegations transmitted

94. The Special Rapporteur sent one urgent appeal to the Government of Cambodia, upon receiving reports in which fears had been expressed for the life and physical integrity of the staff of the newspaper Preap Norm Sar after journalist Chan Dara had reportedly been killed on 8 December 1994. According to the source he had previously been threatened by the military of Kompong Cham, a threat which was presumably related to his investigation into the illegal participation of the military in the trade in wood in the province (22 December 1994).

95. The Special Rapporteur also sent to the Government of Cambodia the following 15 cases, 7 of which were related to violations of the right to life committed by members of the S-91 Unit, the Special Investigation Bureau of the Fifth Military region: alleged killings by armed forces: Hun Sourn, reportedly killed by 4 soldiers of the Forces armées populaires cambodgiennes in Youk-Lang; Mov Ving and Neth Thong, whose families have reportedly been receiving death threats, were reportedly killed in Kach Char village; alleged killings by members of the Bureau d'intelligence militaire special S-91: Lim Tree, reportedly tortured and killed in Anlongvil Village; Mr. Dam, reportedly shot dead in Kampong Ko village; Thoeun Chen, reportedly killed in Rohae village; 3 unidentified persons, reportedly killed in Tuol Daeum Thnaot after being kidnapped by members of the Bureau d'intelligence militaire special KO-1; So Ngy, reportedly shot dead in Cheu Kmau; Sous Saveun, reportedly killed in Cheu Kmau; Kouang, reportedly killed in Chei Kmau; alleged killings by military police: Ang Kouy, leader of the political party, Front uni national pour un Cambodge independant, neutre, pacifique et cooperatif (FUNCINPEC), and his nephew Yin Nhath, reportedly killed in Borivas, Kampot Province; other alleged killings: Nuon Chan, editor of the newspaper Samelng Yu Vachun Khmer, reportedly killed by unknown individuals in Wat Phnom, Phnom Penh, after being put under surveillance allegedly for publicizing articles about the corruption of authorities.

Observations

96. The Special Rapporteur regrets that by the time this report was finalized, no reply to the allegations transmitted had been received from the Government.

Cameroon

97. The Special Rapporteur sent a letter to the Government of Cameroon on 22 August 1995, reminding it of an urgent appeal which had been sent to the Government on 7 March 1994, concerning the civilian Arab population in the

region of Logone and Chari, as well as of the case of Cyprian Tanwie Ndifor, sent to the Government on 3 June 1993, to which no reply was received (see E/CN.4/1995/61, para. 85).

Canada

98. During 1995, the Special Rapporteur transmitted the cases of Nicholas Cotrell, 15 years old, and George Dudley, reportedly killed by the Ontario Provincial Police (OPP) on 6 September 1995. It was alleged that the OPP opened fire on a group of unarmed Pottawatimi and Ojibway men, women and children who were defending a sacred burial ground located in Ipperwash Provincial Park, Ontario.

99. The Permanent Mission of Canada to the United Nations informed the Special Rapporteur that Canadian federal authorities have sought information from the competent authorities of the Province of Ontario which will be provided shortly to the Special Rapporteur (24 November 1995). Furthermore, the Government informed the Special Rapporteur that on 6 September 1995, a confrontation between the occupiers of Ipperwash Provincial Park took place. According to the Government, police officers who were responding to the confrontation were fired upon and they returned fire. As a result of the incident, George Dudley died and Nicholas Cotrell was injured and subsequently taken to the hospital, from where he was released shortly afterwards. In addition, the Government stated that the incident is currently being investigated by the Special Investigation Unit (25 November 1995).

Observations

100. The Special Rapporteur urges the Government to investigate such disturbing allegations, identify and bring the perpetrators to justice and compensate the families of the victims.

Central African Republic

101. On 22 August 1995, the Special Rapporteur sent a letter to the Government of the Central African Republic, as a reminder of the urgent appeal concerning the cases of Dieudonné Kalanga Belly, Antoine Metende, Alain-Issac Gbalele and Boris Barnabé Wili Bona, which had been sent to the Government in 1994 (E/CN.4/1995/61, para. 86).

102. At the time of the finalization of the report, no reply had been received from the Government.

Chad

103. The situation in Chad reportedly remained tense, particularly in the south, where rebel groups were said to be operating. Counterinsurgency operations and reprisal attacks against the armed opposition were alleged to be resulting in violations against the civilian population. Several sources expressed their concern about the continuing climate of impunity, particularly for security forces, allegedly responsible for a variety of human rights violations including large-scale extrajudicial executions in the aftermath of the coup d'état in 1990. Some 1,500 civilians were alleged to be the victims

of extrajudicial killings by the army since 1990, in particular by the Garde républicaine (Republican Guard). This is due to a general breakdown in the judicial system which has made prosecution of these crimes impossible.

104. In addition, the Special Rapporteur received reports about the current situation which seems to result in a two-track army, with an inadequately equipped regular army, and a very well-equipped Garde républicaine enjoying the support of the President of the Republic. The transitional Government, established in 1993, has declared a commitment to abolish the climate of persisting human rights violations. However, hardly any progress seems to have been made particularly in relation to the reform or reinforcement of the judicial system. Moreover, the transitional Government was reported to have created a National Security Agency, with direct responsibility to the President, which, in practice, allegedly repressed civilians and political opponents.

105. The Special Rapporteur, however, did not receive enough detailed information to be able to send any concrete cases of violations of the right to life that occurred in 1995 in Chad.

Allegations transmitted

106. The Special Rapporteur sent an urgent appeal to the Government of Chad with regard to the reported death sentence handed down in November 1994 on Yachoub Issaskha by the Cour criminelle d'Abéché, allegedly after an unfair trial (20 January 1995).

107. The Special Rapporteur also forwarded the following 4 cases to the Government of Chad, concerning the alleged killing of 4 identified and 200 unidentified persons: Alleged killings by members of the Garde républicaine: Ahmat Ali, reportedly killed in January 1994 in Abéché; Abbas Koty Yacoub, President of the Conseil national de Redressement and member of the opposition, reportedly killed on 22 October 1993; alleged killings by the armed forces: Adoum Mahamat, his brother and 200 unidentified civilians, reportedly killed in January 1994 in Abéché by members of the armed forces.

Follow-up

108. On 22 August 1995, the Special Rapporteur sent a letter of reminder to the Government of Chad in respect of the urgent appeal which had been sent on 20 January 1995 and to which he had not received a reply.

Observations

109. The Special Rapporteur regrets that by the time the present report was finalized, no reply had been received from the Government. The Special Rapporteur remains concerned that extrajudicial, summary or arbitrary executions continue to be carried out, in particular by security forces which seem to operate with virtual impunity. He is deeply concerned about the apparent lack of the rule of law in Chad, and calls on the Government to ensure that investigations into the allegations are carried out and that security forces fully respect the limitations and restrictions on the use of

force and firearms, as contained in international instruments. Furthermore, the Special Rapporteur calls upon the Government of Chad to take all possible measures for the establishment of an effective independent judicial system in the country.

## Chile

### Allegations transmitted

110. The Special Rapporteur transmitted the case of Nelson Riquelme Albornoz, a 16-year-old student, reportedly killed by the police on 11 September 1995 during a demonstration in Santiago de Chile.

### Communications received

111. By letter dated 28 November 1994, the Government of Chile provided information concerning the case of Carmelo Soria Espinoza, Spanish citizen and staff member of the United Nations Centre for Demography in Latin America, reportedly killed in 1976 by members of the former Dirección de Inteligencia Nacional (DINA) Directorate of National Intelligence. According to the Government, investigations had stopped in 1979 due to lack of evidence. Judicial inquiries were resumed, however, in 1991 and the case was terminated in 1993, after confirmation by the Supreme Court of an amnesty granted to eight military officials by the military tribunal. Following an appeal by the victim's family to the Supreme Court, the case was reopened in 1994. Judicial proceedings are still under way. A compensation of US$ 307 per month has been granted to the victim's widow.

### Observations

112. The Special Rapporteur welcomes the confirmation of the conviction of General Manuel Contreras Sepúlveda and Brigadier General Pedro Espinoza, by the Supreme Court early in 1995, for having ordered the car-bomb murder in 1976 of Chilean official Orlando Letelier. The Special Rapporteur considers that the implementation of the sentence, although a beginning in the Government's efforts to fight impunity, is not commensurate with the large-scale human rights violations committed in Chile under the regime of General Pinochet.

## China

113. The Special Rapporteur continued to receive reports relating to the application of the death penalty in China, in which concern was expressed at the large number and broad range of crimes subject to capital punishment, which included non-violent offences. According to the information received, 2,496 death sentences and 1,791 executions were recorded in 1994. The Special Rapporteur has also been informed that in death penalty cases, lawyers, when available, usually have no more than two days to prepare the defence. Allegedly, death sentences are often decided upon in advance of the trial by "adjudication committees", whose decisions reportedly are rarely challenged by the courts. Allegations have also been received, according to which the death penalty tends to be imposed disproportionately on people of low social standing who do not have access to a proper legal defence.

114. It has also been reported that executed prisoners are being used as a source of supply of body organs for medical transplantation. In this context, the Special Rapporteur received alarming information according to which execution procedures prescribed by Chinese law are sometimes violated in order to facilitate harvesting of prisoners' organs. In this connection, it has been reported that some of the executions carried out are deliberately mishandled to ensure that prisoners are not yet dead when their organs are removed. These allegations were transmitted to the Government by letter dated 22 August 1995.

Allegations transmitted

115. The Special Rapporteur sent seven urgent appeals expressing fear for the lives and physical integrity of the following persons: Wang Dan, former Tiananmen Square student leader, reportedly threatened with death by Chinese police allegedly because he had sued the Beijing Public Security Bureau for violating his right to privacy and personal freedom (19 December 1995); Gao Yu, journalist, serving a six-year sentence in prison, reportedly denied necessary medication for heart disease (25 January 1995); Lodroe Gyatso, of Tibetan origin, imprisoned in Drapchi prison, reportedly sentenced to death after having been accused of shouting pro-independence slogans in prison (7 June 1995); Wang Jianye and Shi Yanqing, reportedly scheduled to be sentenced to death for economic offences (28 August 1995 and 28 September 1995); Luo Guohong, reportedly sentenced to death for embezzlement by a court in Guangdong province (2 November 1995).

116. In addition, the Special Rapporteur sent another urgent appeal expressing fear that the number of executions might increase prior to the Fourth World Conference on Women. In his urgent appeal he referred to the fact that on 10 and 16 August 1995, at least 26 persons were executed, to ensure "public order" during the Conference. He made special reference to Wang Yuming, Zhang Zhejun, Xie Qiusheng, Pan Yongli, Jiao Zengtian and Kong Zhong, reportedly executed at a large public rally immediately after their hearing, apparently without granting the right to appeal (23 August 1995).

117. Furthermore, the Special Rapporteur urged the authorities to investigate the following cases of alleged deaths in custody: Gyaltsen Kalsang, alias Kalsang Dolma Gangong, a 24-year-old Tibetan nun who reportedly died in Drapchi prison as a result of beatings sustained during imprisonment; Tashi Tsering, a Tibetan monk who reportedly died as a result of ill-treatment sustained whilst serving a seven-year prison term at Drapchi prison; Cherub Ngawang, a 15-year-old a Tibetan nun who reportedly died at her home three months after her release from Trisam Re-education through Labour camp, as a result of ill-treatment suffered in custody; Zheng Musheng, who died while in custody at Dongkou County Public Security Bureau eight days after his arrest.

118. The Special Rapporteur also transmitted the case of Tamdin Tsering, 26, reportedly beaten to death by four Chinese forest officers for unknown reasons.

Communications received

119. The Government provided several replies concerning cases transmitted in 1994 and 1995. Regarding the case of the deaths of 24 tourists from Taiwan and 8 crew members of the pleasure boat Hai Rui, the Government informed the Special Rapporteur that it was a case of robbery and murder. According to the Government, three persons, namely Wu Lihong, Hu Zhihan and Yu Aijun, allegedly boarded the boat and after robbing and forcing passengers into the lower cabin they set fire and sank the boat. On 17 April 1994, the three suspects were arrested and on 10 June a public hearing was initiated. The three admitted their guilt and were sentenced to death. The death sentences were carried out on 19 June 1994 (15 December 1995).

120. Concerning the case of Gao Yu, the Government replied that upon her entrance into prison she was given a physical check-up but no symptoms of heart disease were diagnosed. She was, however found to have high blood pressure which was corrected by medication. The Government confirmed that she was currently in good health.

121. Concerning the case of Wang Dan, the Government stated that allegations contained in the Special Rapporteur's urgent appeal were unfounded. According to the reply received, Wang Dan has enjoyed all fundamental rights and freedoms accorded by law to a Chinese citizen. It was stated that the Chinese Department of Public Security had not restricted his personal freedom and had never threatened him (5 May 1995).

122. The Government also provided information regarding the case of Lodroe Gyatso, and stated that the allegations transmitted were inaccurate. Lodroe Gyatso was sentenced to 15 years' imprisonment for deliberate homicide and to a further period of 6 years for his subversive activities while in prison. As he did not appeal when the sentence was announced, the judgement had entered into force. Lodroe was serving his term in a Tibetan prison and was in good health. It was further stated that he was never beaten by prison staff while in detention (3 August 1995).

Follow-up

123. The Special Rapporteur thanked the Government for the replies provided and sought further clarification with regard to the Qindao Lake incident after having received additional information from the source. The Special Rapporteur also expressed concern at information received regarding capital punishment in China (22 August 1995).

Observations

124. The Special Rapporteur wishes to thank the Government of China for the detailed replies provided. Nevertheless, he continues to be concerned about allegations of unfair trials, and in particular a lack of respect for safeguards and guarantees for the protection of those facing capital punishment in China. He expresses his dismay at reports concerning an increase in the number of executions, including public executions, which reportedly took place before the Fourth World Conference on Women.

125. In view of the alarming allegations received, the Special Rapporteur reiterates his interest in visiting China, to study in situ questions relating to the right to life. The Government has not yet replied to the Special Rapporteur's inquiries, which were sent in November 1992, September 1993, September 1994 and August 1995, regarding the proposed visit.

## Colombia

126. Information brought to the attention of the Special Rapporteur during 1995 reflects that the situation in Colombia has basically not changed since the last visit undertaken jointly in October 1994 by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture. Violations of the right to life, which mainly occurred in the context of an armed conflict between the Government and the guerrillas, continue to be reported on a daily basis. Endemic violence by the military, paramilitary groups and the guerrillas continue to cost tens of thousands of lives every year. Information provided by non-governmental organizations suggests that the army and national police may be responsible for approximately 50 per cent of the killings, the guerrillas for about 25 per cent and paramilitary groups for up to 18 per cent. Civilians, community leaders, human rights activists and political activists appear to be the most common victims.

127. According to the information received, there are an estimated 130 paramilitary groups which reportedly act with the support of powerful landowners, business organizations and drug cartels. It is alleged that they cooperate closely with the Colombian police and military and tend to operate in regions under military control. It has also been alleged that members of the security forces and paramilitary groups continue to commit violations of human rights with virtual impunity and that only rarely are perpetrators brought to justice. Moreover, it is alleged that many of those responsible for violations of the right to life continue to remain in active service in the armed forces.

### Allegations transmitted

128. During the period under review, the Special Rapporteur transmitted 24 urgent appeals to the Government of Colombia, as well as 156 allegations of violations of the right to life. That country continues to receive the highest number of communications sent to a Government under the mandate of the Special Rapporteur.

129. The urgent appeals concerned fears expressed by the Special Rapporteur for the lives of the following persons:

(a) Fears were expressed for the lives of the following human rights lawyers:

(i) Luis Guillermo Pérez Casas, Alirio Uribe Muñoz, Eduardo Carreño Wilches, Reinaldo Villalba Vargas, Pedro Julio Mahecha Avila, Rafael Barrios Mendívil and

Katia Karina Niño Vargas, members of the Corporación Colectivo de Abogados "José Alvear Restrepo", after receiving death threats (7 December 1994 and 20 January 1995);

(ii) Hernando Ordoñez and Juan José Landínez Landínez (human rights lawyers from Bucaramanga, region of Santander), after reportedly receiving death threats by a paramilitary group (22 August 1995);

(iii) Serious fears were also expressed for the lives of members of the Comité de Solidaridad con los Presos Políticos (CSPP) in Cúcuta, following the murder of Javier Alberto Barriga Vergel, member of the CSPP and the Corporación Colectivo de Abogados "José Alvear Restrepo" (22 June 1995);

(b) Fears were expressed for the lives of members of the opposition parties Unión Patriótica (UP) and Partido Comunista de Colombia (PCC) following the murder of Rodrigo Florez, member of UP and PCC (7 December 1994):

(i) Tirso Velez, mayor of the town of Tibu for UP, after he allegedly suffered several attempted attacks against his life by members of the armed forces (15 December 1994);

(ii) Hernán Mota Mota, member of the Colombian Congress for UP after receiving death threats (16 October 1995);

(c) The following trade union leaders reportedly received death threats from members of the security forces:

(i) Jesús Antonio González Luna, Vice-President of the Central Unitaria de Trabajadores (CUT), his wife Gloria Marina González Jaramillo and his son Daladier González Jaramillo who received death threats from members of the Servicio de Investigaciones Judiciales e Inteligencia (22 June 1995);

(ii) Domingo Rafael Tovar Arrieta and Jorge Ortega García, members of the Junta Nacional de la Central Unitaria de Trabajadores (17 August 1995);

(d) The following trade union members reportedly received death threats from paramilitary groups:

(i) Miguel Alberto Fernández, José Dario Delgado Martínez, Oscar Alirio Sánchez, Fernando Dorado, Víctor Collazos, Walter Aldana (7 December 1994);

(ii) CUT member Domingo Rafael Tovar Arrieta, Jorge Ortega and Luis Garzón, and Salomón Ayala, Rafael Cabarcas, Carlos Cano, César Carrillo, Luis Galindo, Jorge Gamboa, Luis Garzón, Gustavo Gutiérres, Hernando Hernández, Nicodemus Luna,

Alfonso Martínez, Edgar Mójica, Fredy Pulcio, Fernando Ramírez, Ramón Rangel, Daniel Rico, Alvaro Solano, Raúl Vaca, and Neftalí Vásquez (16 October 1995);

(iii) Jesús Alfonso Ruíz, Amparo Echevarría, Guillermo Cárdenas and other leaders of Federación Unitaria de Trabajadores de Antioquia (25 October 1995);

(iv) Ana Julia Becerra, Alejandro Bernal, Mauricio Carvajal, Iván Ferreira, Yuly González, Enrique Hernández, José Junco, Doris Jurado, Alvaro Pulido y Edgar Rodríguez, trade union leaders of the Union de Empleados Bancarios (26 October 1995).

(e) Fears were also expressed for the lives of the civilian population of the following towns or regions:

(i) In the town of Bajo Simacota, region of Santander, after a reported increase in violence and intimidation against local farm workers by army counterinsurgency forces. In the same urgent action the Special Rapporteur mentioned the alleged murder of Alexis Orozco Hernández, aged 16, by counterinsurgency forces in November 1994 (15 December 1995);

(ii) In the municipality of Segovia, after receiving reports suggesting an increase in military activity in the region (20 April 1995);

(iii) In the region of Magdalena Medio, after a reported increase of human rights violations perpetrated by a paramilitary group called Los Masetos. In the same urgent appeal, the Special Rapporteur referred to the killing of José Vicente Rueda and acts of intimidation against other local people (30 October 1995);

(f) The following human rights activists and community leaders received death threats:

(i) The names of Jorge Enrique Illera Dodino, human rights activist, Oscar Becerra, community leader, and other civic and community leaders working in the municipalities of Convención and El Carmen reportedly appeared on a death list allegedly drawn up by the Departamento Administrativo de Seguridad (DAS) (2 February 1995);

(ii) Osiris Bayter Feriaz, President of the Corporación Regional para la Defensa de los Derechos Humanos (CREDHOS), Evangelina Marín Rueda, Ramón Rangel and Pablo Javier Arenales, all members of CREDHOS, allegedly received death threats (13 July 1995);

(iii) Members of the Movimiento de Integración Cívico Comunal de Pailitas received death threats after Jairo Barahona Martínez and Ernesto Fernández Fezter, members of the Movement, were killed (6 March 1995);

(iv) Teresa Mosquera and other members of the Comité Cívico de Derechos Humanos del Meta were allegedly threatened twice (22 March 1995 and 18 October 1995);

(v) Elibardo Galvis Barrera, member of the Movimiento de Acción Comunitaria de Aquachica, received death threats after the killings of his brothers and fellow members, Jesús Emilio and Luis Tiberio Galvis Barrera (29 September 1995);

(g) Members of the Ascanio, Quintero and Pérez Guerrero families received death threats after Alirio López Quintero, Ramón David Ascanio, Ramón Eli Ascanio and Carmen Emiro Ascanio were reportedly shot dead by armed men believed to belong to a paramilitary group operating in the region (31 March 1995);

(h) Carlos Emilio Ramírez Montoya received death threats following press articles in which he was accused of being a member of the guerrilla organization Ejército de Liberación Nacional (16 June 1995).

130. In addition, a joint urgent appeal expressing fears for the safety of the civilian population of Segovia and Remedios, Antioquia, was transmitted together with the Special Rapporteur on the question of torture, following an increase in military, police and paramilitary activity in the area. This joint urgent appeal also expressed fears for the safety of Marco Albeiro Valencia Duque, minor, Gildardo Jesús Henao Fernández and Giovani Cárdenas after being harassed and threatened by members of the armed forces and the police (23 October 1995).

131. The Special Rapporteur transmitted 156 allegations of extrajudicial, summary or arbitrary executions. The majority of the allegations transmitted reportedly occurred in 1994. The main victims included indigenous leaders, members of political parties and peasants. Among those killed, six were minors. In most of the cases the deceased were described as guerrillas killed during an encounter with the army. In this context, the Special Rapporteur transmitted to the Colombian Government allegations he had received concerning the extrajudicial, summary or arbitrary execution of the following persons:

(a) The following were reportedly killed by members of the Colombian armed forces:

(i) Indigenous leaders: Iván Hurtado Mesa (member of the Páez indigenous group) and Alvaro Cruz Ramos; Nacianceno Gindrama (member of the Embera tribe and governor of the indigenous community of Pichinde);

(ii) Peasants: Santiago Solano León, José Peña and Eli Bernal Alarcón; Pablo A. Buitrago Barrera, peasant activist; Hugo Sánchez, Angel De Jesús Ariza, Alvaro Blanco and Edilia Ortega; Luis Quintero Sánchez, Ramón Quintero Sánchez, Naum Elias Sánchez Vega and Ramón Sánchez Sánchez, peasants from the same family; Ubaldo Cuello Cuello; Jairo Zapata Bonet; John Osorno; Nelson Albino Quecho and Carlos Alfonso Albino Quecho (aged 17); Francisco Sierra Benítez (aged 17); Lusbin Tobon Pinto; Ramiro Valenzuela Sepúlveda and Beatriz Elena Morales Henao;

(iii) Political activists: Alexi Mauricio Gelves Rivera, Henry Molina; Gustavo Jaramillo, Leovigildo Castellano, Dumar Castellano, José Ignacio Gutiérrez (members of UP); Enrique Buendía and Ricardo González (political activists of the Corriente de Renovación Socialista; Rodrigo Montes Romero (member of the Partido de Oposición y de Renovación Socialista) and Fernando Gómez Barrios;

(iv) Others: Héctor Iván Holguín Lopera; Jesús Carmona Chaverra; Saúl Hernández Mendoza, Director of the Sindicato de Trabajadores Hospitalarios and two unidentified persons; Laudwin Tarazona Gallardo, Daniel Gallardo Jaime and Jesús E. Castellanos Herrera; Hugo Triviño Vargas (14 years old); Nelson Dario Bernal; Enrique Mendoza and Manuel Pérez (mentally retarded); José Antonio Saenz Ramírez and Edilio León Contreras; Carlos Hernán González Orejarena; José Concepción Pérez Llanez; Iván Carlos Nieto Nucua; Omar Quintero Lozano and German García Vergara; Enrique Neuza and G. Patino; Julio Cesar Poello and José Dominguez Carreño; Antonio y Oriol de Jesús Echeverry; Manuel G. O'Meara Miraval; Anibal Sosa Criado and four others; Alvaro Moreno Moreno; Luis Alberto, Quintero Peñate; Marin Peñaranda; Bernardino Prieto, Eugenio Prieto, Horacio Prieto, Jacinto Zea and Arlemey Montoya; Ingri Marcela Morales, Terri (aged 3) and Lilian Arenas Morales (aged 7); Javier Apache; Damaso Antonio Gomez Ruiz; Alejandro Sibaja Estrada (member of the City Council of Necocli and President of the Junta de Acción Comunal), Gabriel Angel Zapata Londoño, Abel Ramos Enamorado and Ninfa Pastrana Vasquez; Paula Chantre Lame; Octavio Carabali Holguin, John Jairo Cortes Salazar and Fernando Velez; Eliecer Jaraba Gil; Jacinto Arrieta Roque; Jesús Antonio Velandia Miranda and Miguel Acosta Torres; Carlos Gustavo Anzola Delgado; Gerardo Lievano Garcia (former trade union leader);

(b) The following were reportedly killed by members of paramilitary groups:

(i) Indigenous leaders: Francisco Múgica (member of the WiWa-Arzario tribe and leader of the Guamaka community); Manuel Narciso Bolaño Suarez, Clemente Mendoza, Hernando Solano, Ferneno Alvarez Conde, Hector Aquiles Nalo Vergara, Luis Arturo Lucas Polo and César Mesa Cruz (leaders of the Zenu indigenous community); Misael Bocanegra Malambo (member of the Pijao tribe belonging to the Aico community);

(ii) Peasants: Edwin López, Eliecer Solera, N.N. Evangelista and Patrocinio Jiménez, (reportedly killed by a paramilitary group named Los Tanqueros); Santander Remoredos Cuadrado;

(iii) Political activists: Pablo E. Canario (political activist and candidate to the town hall in Villagarzon municipality, region of Putumayo); José Vicente Prieto Peñuela (member of UP) and his brother Miguel Cano Velez; Amparo Viela (leader of the Frente de Izquierda Liberal Auténtica and director of electoral campaign for the mayor of Puertoparra);

(iv) Others: Rubel González; Antonio Navarro; Victor Manuel Madrid and his son, Luis Ignacio Madrid; Hermes Randón Ochoa, human rights activist; Estanislao Padilla Ortega, Roberto Padilla Ortega, Baldomiro Padilla Ortega and another identified as "el Manco"; Blanca Cecilia Jiménez Contrera (a deaf 12-year-old girl); Javier Angarita, Daniel Barboza and Saúl Parra; Lucia Cordoba Cobanzo and Anibal; Aura Vasco Restrepo, and Arquímides Salas Vasco; Luis Erasmo Acosta Robayo; Daniel Rodríguez, Constantino Carrillo, Enrique Rolón, Orlando Mora, Carlos José Navarro; Jairo Alberto Llano Yepes and Sergio Bolaños, members of the Asociación de Municipios del Nordeste Antioqueño; Querubin Quintero Ramos and Roberto Ruiz;

(c) The following were reportedly killed by the national police: Estín Payares Arrieta; Wilson Albarracín Hernández; David Castañeda Flores and Oscar Leal Nino; Oscar Palmett Schmalbach (reportedly killed by members of the DAS); Nel María Chito; María Antonia Castaño and María Isabelina Giraldo; Miguel Eduardo Rodríguez Medina; Luis Emilio Mejía Suarez (peasant); Orlando de Jesús Durango; Jesús Daniel Lascarro Maderas; Eduardo Ramirez Pinto; Franklin Gomez (allegedly killed by police in detention);

(d) The following were reportedly killed while in custody or died shortly after release: Alvaro Díaz, who died in the Ramon González Valencia Hospital as a result of ill-treatment by a police officer; Jorge Elí Carmargo Molina, reportedly killed while in custody in the Cárcel Modelo of Bucaramanga. According to the information received he was beaten during detention;

(e) The following were reportedly killed as a result of excessive use of force by the police during demonstrations: Nelson Fernando Lombana and César Alfonso García Sanclemente (student);

(f) The following were reportedly killed by unidentified men allegedly linked with either paramilitary groups or the army: José Elias Suárez (indigenous leader and member of the Executive Committee of the Organización Indígena de Antioquía); Luis Segundo Reyes Rojas (former member of UP); Oscar Garcia Solis (human rights defender involved in civic and popular activities); Ruth Coronado; Campo Elias Correa Acosta; Marco Aurelio Perez Castrillón and Jaime Gabriel Ortiz.

132. In addition, the case of Martin A. Parroquiano Cubidas, Prosecutor of the Fiscalia Regional of Yopal reportedly killed by unidentified men, was also transmitted to the Government. According to the information received, he was investigating the killings of the mayors of Aguazul and Chaneza and violations of the right to life by police and the military.

Communications received

133. During the period under review, the Government of Colombia provided replies to a large number of allegations. Due to the large number of communications received and sent to Colombia during 1995, and in view of the lack of human resources, not all the government replies have been dealt with. The Government informed the Special Rapporteur that investigations had been started and measures had been adopted to protect the life and physical integrity of the following persons: Yaneth Bautista and Gloria Herney Galíndez (5 December 1995 and 11 May 1995); Father Gustavo Suárez Niño (19 December 1994); Teófila Roa and D. Mendoza, members of the Consejo Regional Indígena del Tolima (22 February 1995); Luis Guillermo Pérez Casas, Alirio Uribe Muñoz, Eduardo Carreño, Reinaldo Villalba Vargas, Pedro Julio Mahecha Avila and Rafael Barrios Mendivil, members of the Colectivo de Abogados "José Alvear Restrepo", and Katia Niño Vargas, the wife of Luis Guillermo Perez Casas (2 February 1995, 28 March 1995 and 22 August 1995); Alvaro Vásquez del Real, leader of the PCC, Aida Abella, member of UP, Hernando Mota Mota, congressman for UP, Jaime Caicedo member of PCC, Orlando Obregón, president of CUT, César Carrillo, president of the Unión Sindical Obrera (USO), Gilberto Vieira, and Carlos Lozano; Nelson Berrio; Bishop Nel Beltrán and the priest Dario Castrillón Hoyos; Julio Ramón Olivera Gracía (11 April 1995).

134. In addition the Government reported that Tirso Vélez, member of UP, received police protection until December 1994 when he renounced it. Furthermore, in the case of Marina Salas, member of the Movimiento Cívico por la Defensa de Sampués, the Special Rapporteur was informed that the victim confessed that she made the threats herself due to personal problems (11 April 1995)

135. The Government stated that investigations were under way into the allegations of: Benjamin Santos, Laureano Iñampue, Isidro Mercado Jimenez, Manuel Serafín Guerrero and Guillermo Marín (28 November 1994 and 11 April 1995). Moreover, the Government informed the Special Rapporteur that

investigations have been initiated in the killings of Humberto Marroquín Iglesias (10 February 1995); Julio Cadena Ducuara, Yesid Ducuara Villabón, Nelson Moreno, Julio Cenen, Edgar Letton, Luis Morales and Yesid Bocanegra Martínez; Jairo Barahona Martínez; Lucas Sepúlveda, José Cayetano Sepúlveda and Luis Antonio Villegas; David Reyes Castro; Rodrigo Flores; Alexis Orozco; Abraham Alvarado (11 April 1995); and Miguel Guillermo Omeara Miraval (11 May 1995).

136. Concerning the death of Edwin Castillo Piña and death threats to the Piña family, the Government of Colombia stated that judicial and police investigations initiated appear to implicate a paramilitary group called Los Masetos (11 April 1995). In addition, investigations have been started to determine the involvement of paramilitary groups into the killings of Adriano Portillo, Javier Contreras Bacon, Alvaro Botello, José del Carmen Ruíz, José Buitrago Zabala, Manuel Figueroa, Alcídes Paces Tarazona and Rodrigo Carmona Camao (11 April 1995). Regarding the death threats received by María Magdalena Rodríguez, investigations had commenced in order to determine whether military officials were involved (11 April 1995). In connection with the murder of Javier Alberto Barriga Vergel, member of the Colectivo de Abogados "José Alvear Restrepo", the Government indicated that investigations have been initiated (22 August 1995).

137. In the context of death threats, the Government informed the Special Rapporteur that threats had ceased in the allegations of: Luis David Rodríguez Pérez, reportedly threatened with death for his trade union activities (19 December 1994); Alvaro Martínez Pinzón (10 February 1995); Miguel Alberto Fernández, José Darío Delgado Martínez, Oscar Alirio Sánchez, Fernando Dorado, Victor Collazos and Walter Aldana, trade union leaders members of the Federación Sindical Unitaria de Trabajadores del Cauca (11 April 1995).

138. In addition, the Government stated that investigations were initiated but no indications of involvement of army official or State forces were found in the following allegations: Marco Tautiva, Omar Valbuena and Miguel Ospina; death threats against Isabel Cristina Rincón Bravo (11 April 1995); no irregularities appeared to have been committed by army officials in the case of the Albergue Campesino in Barrancabermeja, as initially stated in the urgent appeal of the Special Rapporteur sent in March 1994 (18 January 1995).

139. Regarding the death threats received by Olga Matilde Ortiz and Ruth Rueda, members of the Federación Nacional Sindical Unitaria Agropecuaria, the Government stated that victims have not addressed any complaints to the police and attempts by the police to contact victims had not been successful (11 April 1995). In addition, in the case of death threats to trade unionists Edgar Riaño, Dario Lotero, Luis Hernández and Monerge Sánchez of USO, Victor Ramirez of SINTRANSON, Bertina Calderón and Domingo Tovar of CUT, no security arrangements could be made as they could not be traced after they moved to Bogotá for security reasons. The Government also referred to the fact that no formal complaints had been lodged by the trade unions (11 April 1995).

140. In addition, the Special Rapporteur was informed that investigations into the Riofrío massacre concluded that members of the army were involved in the incidents and several officials are currently being tried (11 May 1995).

141. By communication dated 28 February 1995, the Government of Colombia stated that in order to strengthen its human right's policy, a special committee was created to study, apply and report on the recommendations made by the special rapporteurs. In the same letter, the Government requested the special rapporteurs to increase the number of their missions and follow-up visits to the country. By letter dated 25 April 1995, the Government of Colombia provided a tentative schedule of visits of special rapporteurs to Colombia.

142. By communication of 15 May 1995, the Government reiterated its invitation to the Special Rapporteur to visit Colombia and forwarded information on the human rights policy adopted by the Government.

143. By note verbale dated 5 July 1995, the Government of Colombia informed the Special Rapporteur about the main developments in human rights adopted by the Government which included, inter alia a decree establishing a follow up commission in charge of analysing and promoting the fulfilment of recommendations made by the United Nations special rapporteurs; approval of a bill to provide compensation to victims of human rights violations; implementation of a National Communication Network for Human Rights Protection in Colombia with the aim of fighting impunity and with the objective of offering better information to victims of human rights violations. By note verbale dated 31 July 1995, the Government of Colombia provided the Special Rapporteur with a copy of the bill on compensation for victims of human rights violations.

144. By letter dated 6 July 1995, the Government of Colombia provided comments and observations regarding the list of outstanding allegations in Colombia, which the Special Rapporteur had transmitted previously during the year.

145. By letter dated 5 November 1995, the Permanent Mission of Colombia transmitted a copy of a communication from the Ministry for Foreign Affairs dated 15 November 1995, providing information about 37 alleged cases of extrajudicial, summary or arbitrary executions. The letter was received at the Centre for Human Rights on 7 December 1995. The Special Rapporteur will transmit this information to the sources and will comment on it at a later stage.

146. Moreover, information regarding the initial meeting of the Comisión para el análisis y el asesoramiento de las recomendaciones formuladas por los órganos internacionales de derechos humanos, was provided to the Special Rapporteur during the course of a meeting with Dr. Carlos Vicente de Roux, Consejero Presidencial para los Derechos Humanos (Presidential Adviser for Human Rights).

147. By a communication dated 24 November 1995, the Government of Colombia provided a set of observations in relation to the conclusions and recommendations made by the former Special Rapporteur, Mr. Amos Wako, after his mission to Colombia in 1989.

Follow-up

148. By letter dated 26 September 1995, the Special Rapporteur thanked the Government for the large number of replies provided and requested further information on the allegations of: Gustavo Humberto Marroquín Iglesias; Julio Cenen Rodríguez Quiñonez; Edwin Castillo Piña; Luis Alberto Morales Malambo; Marco Tautiva, Omar Valvuena, and Miguel Ospina; David Reyes; Manuel Serafín Guerrero, Laureano Iñampue; Guillermo de Jesús Marín Echevarría; Isidro Mercado Jiménez; Yesid Ducuara Villabón; Yesid Bocanegra Martínez; Julio Cadena Ducuara, Nelson Moreno Ducuara, Jairo Barahona, Lucas Sepúlveda, José Cayetano Sepúlveda, Luis Antonio Villegas, Adriano Portillo, Javier Contreras Baron, Alvaro Botello, José del Carmen Ruíz, William Buitrago Zabala, José Raruro, Manuel Figueroa, Alcides Páez Tarazona, Rodrigo Carmona Camao, María Magdalena Rodríguez, Abraham Alvarado, Rodrigo Florez, Aleixir Orozco and Benjamin Santos. The Special Rapporteur also requested more details in the case of Riofrío.

Observations

149. The Special Rapporteur wishes to express his appreciation for the willingness shown by the Government of Colombia to cooperate with his mandate. He would like to point out, however, that he continues to be extremely concerned about the enormous number of violations of the right to life that occur in Colombia on a daily basis. Due to a shortage of resources, the Special Rapporteur was unable to process all the allegations received.

150. The Special Rapporteur believes that despite the establishment of formal mechanisms and the enactment of laws aimed at dealing with the current human rights situation, the recommendations arising out of his joint visit to Colombia with the Special Rapporteur on the question of torture (17-26 October 1994; see E/CN.4/1994/111) have not been effectively implemented, nor has the human rights situation improved significantly. In view of the foregoing, the Special Rapporteur considers that there is an urgent need to set up an international human rights mechanism with enough resources to report publicly on the human rights situation and to monitor human rights violations in situ, as well as assisting the Government and non-governmental organizations in this field. In addition, the appointment by the Commission on Human Rights of a Special Rapporteur for Colombia should not be seen as a hostile measure against the Government of Colombia but as a measure commensurate with the seriousness of the human rights situation. The Special Rapporteur could thus cooperate with any other mechanism which could eventually be set up by the High Commissioner for Human Rights by the Colombian Government.

## Côte d'Ivoire

151. According to the information received a bill was adopted by the Council of Ministers of Côte d'Ivoire on 16 March 1995, which extended the application of the death penalty "by fusillade and in the presence of the public" for the crime of theft with the use of violence (délit de vol avec violence). The bill was later adopted by the National Assembly during its session in April 1995. It was brought to the Special Rapporteur's attention that the Government had found justification for the extension of the application of the

death penalty in the increased insecurity, caused by a wave of violence in Côte d'Ivoire. The Special Rapporteur had furthermore been informed that although not abolished by law, the death penalty had not been applied in the country since 1960.

Allegations transmitted

152. The Special Rapporteur sent a letter to the Government of Côte d'Ivoire, in which he expressed his very deep concern about the information he had received. He emphasized that, although the death penalty is not prohibited in international law strictu sensu, its abolition is desirable, as has been expressed on several occasions by competent United Nations bodies. The Special Rapporteur appealed to the Government of Côte d'Ivoire to reconsider its position towards the draft law, and requested the Government to provide him with any comments the Government wished to make thereon. He furthermore announced his intention to make the contents of his letter public (20 April 1995).

153. Since the Government did not provide the Special Rapporteur with any reply or comments to his letter, the Special Rapporteur issued a press release in which he informed the public about his deep concern with regard to the possible extension of the application of the death penalty in Côte d'Ivoire.

Observations

154. The Special Rapporteur regrets the Government's failure to reply to his letter. He is deeply concerned about the extension of the death penalty, together with measures taken allegedly aiming at speeding up the judicial process, at the expense of internationally recognized fair trial standards. The extension of the scope of the death penalty is clearly in contradiction with the international trend towards a total abolition of the death penalty, as confirmed by several international bodies on various occasions. He furthermore expresses his deep concern about the alleged killing of demonstrators as well as reports about the occurrence of communal violence in the framework of national elections in Côte d'Ivoire.

Cuba

155. During the period under review, the Special Rapporteur sent two urgent appeals to the Government of Cuba and transmitted cases of allegations of violations of the right to life of 43 individuals, including 15 women and 13 minors.

156. For a detailed analysis of the human rights situation in Cuba, reference is made to the report of the Special Rapporteur on the situation of human rights in Cuba (E/CN.4/1996/60).

Allegations transmitted

157. The Special Rapporteur sent two urgent appeals to the Government on behalf of: Ramón Fidel Basulto García, after the prosecution requested a death sentence for murder and whose execution, if convicted, was feared to be imminent (30 December 1994); Juvencio Padrón Dueñas, Félix Molina Valdés and

Carlos Cruz Seguis, after they had been sentenced to death for the murder of two persons in Ciego de Avila and whose trial was alleged to contain irregularities including ill-treatment of one of the defendants in order to extract a confession (10 October 1995). This urgent appeal was sent jointly with the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights in Cuba.

158. In addition, the Special Rapporteur transmitted to the Government allegations he had received concerning the following extrajudicial, summary or arbitrary executions:

(a) The following persons were reportedly killed by police officers: Rogelio Pineiro Benitez; Carlos Regino Araujo Nuñez, aged 17, killed in front of the Hotel Inglaterra in Havana after he ignored the order to stop given by the police; Wilfredo Almiral de Armas, who died as a result of the injuries inflicted by a policeman when he was trying to steal some chickens;

(b) The following persons reportedly died in custody: Heriberto Ferro Olivera, killed by prison guards when he was trying to escape from prison; Efraín Aldama Regalado, who reportedly died as a result of the beating inflicted by prison guards in Taco Taco; Felipe Torres Almora, who reportedly died in Pinar del Rio prison due to malnutrition; Alfredo Pérez Martínez, who died as a result of lack of medical care in Combinado del Sur prison; Joaquín Viera Sánchez, who reportedly died in custody at a police station in Ciego de Avila;

(c) The following 34 persons, including 15 women and 13 children, were reportedly killed by the Cuban navy while trying to leave Cuba by boat: Leonardo Notario Góngora, Marta Caridad Tacoronte Vega, Caridad Leyva Tacoronte (4 years old), Yousel Eugenio Pérez Tacoronte (11 years old), Marjolis Méndez Tacoronte (17 years old), Odalys Muñoz García, Pilar Almanza Romero, Yasser Perodin Almanza (11 years old), Manuel Gayol, Yuliana Enríquez Carranza, Helen Martínez Henríquez (6 months old), Xindy Fernández Rodríguez (2 years old), Jose Carlos Nikel Anaya (3 years old), Yaltamira Anaya Carrasco, Marta Carrasco Tamayo, Joel Garcia Suáez, Mario Gutiérrez, Elio Juan Gutiérrez García (10 years old), Fidelio Rainel Prieto Hernández, Ernesto Alfonso Loureiro, Lázaro Borges Briel, Augusto Guillermo Guerra Martínez, Armando González Ruíz, Lisette María Alvarez Guerra, Giselle Borges Alvarez (4 years old), Julia Caridad Ruíz Blanco, Angel Rene Abreu Ruíz (3 years old), Jorge Arquímides Lebrigo Flores, Eduardo Suarez Esquivel, Estrella Suarez Esquivel, Eliecer Suárez Esquivel (11 years old), Omar Rodríguez, Miralis Fernán Rivero and Yolindis Rodríguez Rivero (2 years old).

Communications received

159. The Government of Cuba provided information on the case of Ramón Fidel Basulto García. According to the Government the allegations did not correspond to reality. Furthermore, the Government argued that the case did not fall into the purview of the Special Rapporteur's mandate. It was also stated that during the trial Basulto García had benefited from all safeguards and guarantees established in both Cuban as well as international law. In addition, the Government pointed out that should capital punishment be

imposed, Basulto García would still have an appeal (recurso de casación al Tribunal Supremo or (indulto del Consejo de Estado)), and that the death penalty is rarely applied in Cuba (16 January 1995).

Observations

160. The Special Rapporteur thanks the Government for the reply provided. However, the Special Rapporteur would like to express deep concern at the alleged killing of the 34 persons, including 13 children, who were trying to leave Cuba by boat. These allegations require proper investigation, the perpetrators brought to justice and compensation provided to the victims' families.

## Czech Republic

Allegations transmitted

161. In 1995, the Special Rapporteur transmitted one case to the Government of the Czech Republic, concerning the death of Martin Cervenak, of Roma origin, who reportedly died in police custody on 10 June 1994, in the town of Horsovsky Tyn, allegedly after having been shot during an interrogation.

Communication received

162. The Government of the Czech Republic replied to the Special Rapporteur that an official investigation had concluded that Martin Cervenak had died of injuries sustained when Mr. Cervenak attacked a police inspector during interrogation and his gun went off accidentally. No physical force had been used against him.

## Djibouti

163. The Special Rapporteur sent a letter to the Government of Djibouti on 22 August 1995, as a reminder of cases he had sent on 23 September 1994 concerning Ali Mohammad Fatouma, Youssouf Mohammed Nasser and two unidentified persons, to which he had not received a reply yet (E/CN.4/1995/61, para. 117).

164. At the time the present report was finalized, no reply had been received from the Government.

## Ecuador

165. In a letter dated 25 September 1995, the Special Rapporteur transmitted to the Government of Ecuador the case of Matilde Maya Quira, a two-year-old girl of Colombian nationality reportedly killed by the police in Ibarra.

166. In a note verbale dated 29 September 1995, the Government acknowledged receipt of the above-mentioned communication while awaiting for a response from the competent authorities of the Government.

## Egypt

167. As in previous years, the Special Rapporteur continued to receive reports about death sentences imposed on civilians by military courts, after alleged unfair trials. Concerns were expressed on several occasions about the lack of independence and impartiality of the judges of military courts, restrictions in the time available for the preparation of the defence and restrictions on the use of the right to appeal. According to the information received, defendants before the Supreme State Security Court do not have the right to appeal before a higher tribunal as sentences and verdicts passed by that court can only be reviewed by the executive, i.e. the President or a person mandated by the President to do so.

168. Furthermore, the Special Rapporteur received information about two persons who reportedly died whilst in custody. Ten civilians were reportedly killed by the police after their arrest; in nine of the cases the victims had allegedly been taken to sugar-cane fields where they were killed. Information relating to extrajudicial or arbitrary killings of civilians by members of the security forces was also brought to the attention of the Special Rapporteur.

### Allegations transmitted

169. The Special Rapporteur sent four urgent appeals to the Government of Egypt, all concerning allegations relating to the imposition of death penalties by military courts after trials which were reported to fall short of the international guarantees of a fair trial, especially regarding the right to appeal.

170. The appeals were sent for the following persons: Mohammad 'Ata-'Alla 'Omar and Rabi' Mohammad Mahmoud Hussein, who were allegedly at risk of imminent execution after having been sentenced to death by the Supreme Military Court (7 December 1994); Mohammad Nagui Mohammed Mustapha and Mohammad Khadir Abu al-Farag al-Mahlawi, who were reportedly sentenced to death by the Supreme Military Court in Cairo, after which the right to appeal was not guaranteed (2 March 1995); Hussam Hassan Suleiman and Ahmad Mahmoud 'Abd al-Rahman, who were reportedly sentenced to death by the Supreme Military Court for murder, sabotage and assault and membership of the Gihad, a banned Islamic organization. According to the information received, although they had a right to submit a petition to the Military Appeals Bureau, which is chaired by the President of Egypt, they did not have the right to have their sentences reviewed by a higher instance (28 June 1995); Mohammad Fawzi Mohammad Ibrahim, Ahmad 'Abd al Qadir-Bakri and 'Izzet al-Shahhat Mohammad, who had been sentenced to death on 6 June 1995 by the Supreme State Security Court. It was alleged that 'Izzet al-Shahhat was tried *in absentia* (16 June 1995).

171. The Special Rapporteur furthermore transmitted to the Government of Egypt 16 cases containing allegations of violations of the right to life of 18 persons.

172. The Special Rapporteur received a considerable number of allegations related to killings of Christian Egyptians which reportedly occurred in 1994 and 1995, with the connivance of Egyptian officials and the support of local

security forces. In this regard, he intervened on behalf of the following persons: Alam Tadros Khair, Lofty Nikhla Tadros, Youssouf Ameen, Saeed Atta Saed, Esmat Saed Alta, Ebaad Youssry Fahim and Khalil Radros Boutros; Maher Naguib Wahbi, Ezzat Tawfik Saad, Louis Bacilious Saad, Dr. Safawat Zakher Saleh, Naber Zakher Saleh, Elia Naguib Demitri; Nabil Selwanis; Lofty Hazzy; Azmy Mokhtar Aziz, Mahfouz Rashid Bacilious.

173. In addition, the Special Rapporteur transmitted to the authorities the following cases: alleged deaths in custody: Ahmed Faroug Ahmed; Mohsen Mohammad Awad, who died reportedly during detention in al-Wadi Al-Gadeed prison; Iffat Mohammad Ali, who allegedly died as a result of torture by the police; allegations of deaths after arrest were reported in the following cases: Ahmed Yehya Abdel Rahman and Amer Fatehi Yaki Ismail were reportedly killed by police officers in sugar-cane fields after detention; Nashat Sidki, Kamal Saad, Emad Id Al-Rashid, Gamil Mohammed Othman Ismail Mohammed Abd Al-Halim, Mohsen Ali Abo Al-Razzak, Ali Hassan Abd Al-Min-'em and Mohammed Abbas Hamzawi; Ragab Abd al-Hakim Mossad, who was suspected of being a member of a terrorist organization, was reportedly killed by the police upon arrest; alleged killings by security forces: Amin Shafiq Hamam, student; Reda Mahmoud Mohammad and Mohammad 'Abd Al-Rahman; Abdel Hamid Mohammed Abdul Latif and three unidentified persons including an eight-year-old child, reportedly killed during a protest demonstration on 27 September 1994.

Communications received

174. The Government sent a reply concerning the cases of death sentences imposed on Ahmad Muhammad Mahmoud Guma'a and Sharif Muhammad Hassan, raised by the Special Rapporteur on 26 September 1994 and 20 October 1994 respectively. The Special Rapporteur was informed that the two persons convicted had been sentenced to death for membership of an illegal terrorist organization and participation in a criminal conspiracy against the Government. The Government stated that the proceedings were conducted in accordance with the stipulations of the Code of Criminal Procedure and the Code of Military Justice, and that the sentences were carried out after exhaustion of legal procedures concerning appeals and requests for review (30 December 1994).

175. The Government also provided a reply to the urgent appeal of 7 December 1994, and stated that Mohammad 'Ata-'Alla 'Omar and Rabi' Mohammad Hussein had been found guilty of conspiracy against the Government. The decision was confirmed by the Ratification Section of the Directorate-General of Military Justice. The appeal for a review of the proceedings of both defendants was examined by the Appeal Office of the Directorate-General of Military Justice, which did not find any legal justification for the pleas submitted by their defence counsels and therefore rejected the substance of their appeals (20 June 1995).

176. Furthermore, the Government replied to the urgent appeal of 28 June 1995 concerning the cases of Hussam Hassan Suleiman and Ahmad Mahmoud 'Abd al-Rahman, who had been found guilty of "participation in terrorist activities against the Constitution". The trial was carried out in presence of the defendants and in accordance with law, and the Ratification Section of the Directorate-General of Military Justice examined the legal aspects and

concluded it was correct. The defendants had the right to seek a review of the judgement within 15 days from the date of the notification of its ratification (31 August 1995).

177. By the time the present report was finalized, no replies had been received to the urgent appeals sent on 2 March 1995 and 6 June 1995.

Follow-up

178. The Special Rapporteur addressed a letter to the Government following up on two replies received from the Government in 1995. He thanked the Government for its willingness to cooperate with his mandate, but expressed concern about the number of civilians tried by military courts in Egypt, as well as about the allegations he had received about the wider jurisdiction which had reportedly been given to military courts over civilian matters. The reported absence of a right to appeal as well as the fact that military officers are reported to be appointed by the Minister of Defence for a period of two years and who could be removed at his discretion, resulting in a failure to guarantee the independence of the judges, were sources of increasing concern to the Special Rapporteur. The Special Rapporteur also sent the Government of Egypt a list of the cases which had been sent to the authorities in 1995, to which he had not received a reply, on 20 August 1995.

Observations

179. The Special Rapporteur wishes to thank the Government of Egypt for the information provided in reply to several of his communications. The Special Rapporteur, however, expresses his concern about the state of emergency in Egypt which continues to be imposed after more than 13 years, resulting in additional power being extended to the security forces and leading to an increasing number of violations of the right to life committed by members of those forces. The military courts, as well as the Emergency State Court, have reportedly been given wider jurisdiction since 1993, resulting in the creation of a parallel judicial system. This phenomenon is not in accordance with article 5 of the Basic Principles on the Independence of the Judiciary (1985), principle 5 of which states that "Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals." It is furthermore particularly disturbing in view of the high standing of the judiciary in Egypt. The Special Rapporteur furthermore reiterates his concerns, expressed in previous reports, with regard to the allegations he continues to receive according to which, in practice, procedures before military courts fall short of guarantees as contained in several international instruments, especially in respect of their impartiality as well as the rights of defence, particularly the right to appeal to a higher jurisdiction and to seek pardon or commutation of sentence at the highest level of the State.

## El Salvador

180. According to the information received, impunity continues to be the major cause of human rights abuses in El Salvador and it perpetuates the cycle of

violence. Despite an alleged reduction in the number of political murders, former guerrilla leaders have reportedly been killed since the signature of the peace agreements.

Allegations transmitted

181. The Special Rapporteur sent one urgent appeal to the Government of El Salvador, after fears were expressed for the life of Francisco Carrillo, director of FUNDASIDA, a non-governmental AIDS organization. Reportedly, he and another AIDS-worker had previously been threatened by unidentified men believed to belong to an anti-homosexual death squad, allegedly made up of police and military personnel (4 July 1995).

182. In addition, the Special Rapporteur transmitted to the Government the case of Franklin Israel Molina Archila, reportedly killed by five police officers while he was travelling.

Communications received

183. Receipt of the above-mentioned case of Franklin Israel Molina Archila was acknowledged, and the case was transmitted to the appropriate authorities (9 June 1995).

## Equatorial Guinea

184. For an in-depth analysis of the situation of human rights in Equatorial Guinea, reference is made to the report of the Special Rapporteur on the situation of human rights in that country (E/CN.4/1996/67).

185. The Special Rapporteur transmitted to the Government the case of Antonio Ndong Ebang, a deserter from the army, reportedly killed by the army on 31 March 1994.

186. At the time this report was finalized, no reply had yet been received from the Government of Equatorial Guinea.

## Ethiopia

Allegations transmitted

187. The Special Rapporteur sent to the Government of Ethiopia one case concerning the alleged death of Bekele Argaw, a former army officer, who had reportedly been killed by soldiers on 26 September 1994 in Ambo.

Communications received

188. The Government provided the Special Rapporteur with a reply to his follow-up letter which was sent in September 1994, in which he had requested additional information with regard to the case of Tesfahun Worku. (see E/CN.4/1995/61, para. 135). The Government informed the Special Rapporteur that a Committee of Inquiry had been set up charged with investigating the facts of the student demonstration on 4 January 1993 during which the victim had been killed. The Committee had concluded that although the demonstration

was illegal, State forces had used disproportionate force, and the security forces as a whole should be held responsible. Moreover, the Committee had made the following recommendations to the Government: police should be trained in the use of force and provided with instruments (weapons); a directive to regulate the use of firearms should be issued; compensation should be paid to the family of the victim (13 February 1995).

189. The Government replied that in the cases of Ahmed Ibrahim Nur, Abshir Ali Dhuh and Ilakin Hersi, transmitted in 1994, an investigation had been started (E/CN.4/1995/61, para. 133). The Government stated that no information substantiating the allegations as sent by the Special Rapporteur had been received by the Government (5 July 1995).

Follow-up

190. The Special Rapporteur sent to the Government of Ethiopia a follow-up letter, requesting the Government to provide him with additional information concerning the case of Tesfahun Worku, to which the Government had replied on 13 February 1995 (22 August 1995).

Observations

191. The Special Rapporteur wishes to thank the Transitional Government of Ethiopia for the information provided. He calls on the Transitional Government to take the measures suggested by the Committee of Inquiry regarding the 4 January 1993 demonstrations to bring the law and the practice into conformity with international standards. The Special Rapporteur again calls upon the Transitional Government of Ethiopia to ensure that all allegations of human rights violations are exhaustively and impartially investigated, with a view to establishing the facts, identifying those responsible and bringing them to justice, granting adequate compensation to the victims or their families, and preventing the recurrence of such violations. In addition, the Special Rapporteur is unaware of any Government reaction to suggestions he made previously about the trial of people accused of human rights violations and genocide under Mengistu Haile Mariam's regime.

## France

192. In reports received by the Special Rapporteur in 1995, concern was expressed about the increasing use of excessive force by law enforcement officers.

Allegations transmitted

193. The Special Rapporteur transmitted the following four cases to the Government of France, containing allegations of cases that occurred in 1993, one of them concerning the death in custody of a minor. Two of the cases were related to violations of the right to life of persons of non-European origin: Makome M'Bowole, 17 years old, of Zairian origin, reportedly died on 6 April 1993 in the commissariat de police de grandes carrières, in the 18th arrondissement of Paris, during an interrogation; Frank Monet was reportedly killed on 25 July 1993, when an officer of the gendarmerie in Saint-Bartholemy-de-Vals fired at his car nine times; Romuald Duriez, was

reportedly killed by a policeman on 5 October 1993 during a robbery in Trebon, a suburb of Arles; Mourad Tchier, of Algerian origin, was reportedly killed on 27 December 1993 by a police-officer in Saint-Fons, near Lyon. According to the information received, the four cases were under investigation.

Observations

194. The Special Rapporteur regrets the fact that by the time the present report was finalized, no reply had been received from the Government of France. He is deeply concerned about the allegations received with regard to the official anti-immigration policy which may result in discriminatory treatment of foreigners by law enforcement officials. In this regard, he is concerned about the alleged extrajudicial executions in which foreigners are disproportionably involved.

195. He welcomes the fact that steps are being taken to review the traditional French legal system of "review by a final court of appeal" (cassation) in criminal cases which in his view does not conform to the international norms concerning the right of a convicted person to have his sentence reviewed by a higher jurisdiction. The current procedure only provides a review of the legal aspects of the case, but excludes a review as to the facts of the case. Should France change its cassation procedure, this will encourage other countries which follow the same legal tradition in which the death penalty is applicable, to provide defendants facing capital punishment with an additional opportunity for review.

Gambia

196. At the time the present report was finalized, it was brought to the Special Rapporteur's attention that the Ruling Armed Forces Provisional Ruling Council (AFPRC) had issued a decree on 12 August 1995 reinstating the death penalty which had been abolished in 1993.

Georgia

197. The Special Rapporteur received reports about the resumption of executions in Georgia after a two-year moratorium was lifted in March 1994. It was brought to his attention that the national legislation of Georgia does not provide for automatic appeal in these cases.

198. He also received disturbing reports about continuing violations of human rights, in particular about extrajudicial and arbitrary executions of civilians of Georgian ethnic origin, in the Gali district in Gali, by Abkhaz militia forces or the police.

Allegations transmitted

199. The Special Rapporteur sent an urgent appeal to the Government of Georgia concerning the alleged imminent execution after a reportedly unfair trial with no right to appeal of Irakli Dokvadze, Petre Gelbakhiani and 17 other defendants. According to the information received, the sentence was reportedly handed down by the Supreme Court of the Republic of Georgia. The defendants, it was reported, were not informed of the charges against them

when they were arrested in 1992, and they had periodically been denied access to lawyers of their own choice. It was reported that, in some of the cases, defendants and lawyers were excluded from the proceedings. Confessions were furthermore reported to have been obtained under duress and torture (13 March 1995).

Communications received

200. The Government provided the Special Rapporteur with information concerning the fate of a person of Georgian nationality who was reportedly tried and sentenced to death by a court in Abkhazia. The Government of Georgia alleged that the trial had been unfair and without a right to appeal, and asked the Special Rapporteur to intervene in the case.

Observations

201. The Special Rapporteur would like to thank the Government of Georgia for the information made available to him. The Special Rapporteur expresses his deep concern about ongoing violations of the right to life of ethnic Georgian civilians by Abkhaz militia forces. He expresses concern about reports about increased tension, particularly in the Gali district, and deplores the lack of progress in the negotiations. He expresses the hope that a political settlement of the conflict will be reached.

202. He would also like to point out to the Government of Georgia that it does not fall within his mandate to intervene in cases like the one that was brought to his attention by the Government of Georgia. He does, however, deplore the way the trial and the death sentence were reportedly carried out by the Abkhazians.

## Germany

Allegations transmitted

203. The Special Rapporteur sent one urgent appeal to the Government of Germany, concerning the alleged imminent repatriation to Algeria of Boualim Rebai, an Algerian national and asylum-seeker in Germany. According to the information received, he had deserted from the police in Algeria after the increase in political violence, and fled to Germany in 1993. It was brought to the Special Rapporteur's attention that his life might be in danger if he were deported to Algeria. The Special Rapporteur, therefore, requested the Government of Germany to refrain from expelling him (4 July 1995).

204. The Special Rapporteur also sent the following two cases to the Government of Germany, one of them concerning the alleged death of a minor: Halim Daner, of Turkish Kurdish origin, 16 years-old, reportedly shot dead by a police officer on 30 June 1994, upon arrest whilst putting up posters for the Popular Front of the Kurdistan Worker's Party (ERNK); Kola Bankole, of Nigerian nationality, who reportedly died on 30 August 1994 in the aircraft which was to return him from the airport of Frankfurt am Main to Nigeria, after being injected with a sedative when he resisted the efforts to deport him. A judicial investigation was reported to have started.

Communications received

205. The Government provided a reply to the following cases sent by the Special Rapporteur. With regard to the case of Halim Dener, the Government informed the Special Rapporteur that investigations had been conducted by the office of the public prosecutor, and that a police officer had been charged with the negligent homicide of Halim Dener. The officer was scheduled to be tried before court in the first half of 1996. Concerning the case of Kola Bankole, the Government informed the Special Rapporteur that criminal proceedings concerning the doctor who treated him have not yet been concluded. Proceedings against the officers of the Federal Border Guard were discontinued for lack of a prima facie case. The Special Rapporteur was informed that the courts would impose sanctions on the doctor if they deem it necessary. The family so far has not applied for compensation (24 November 1995).

Observations

206. The Special Rapporteur thanks the Government for its cooperation with his mandate. He is concerned, however, about the fact that both allegations of violations of the right to life received in 1995 concerned foreigners.

207. He wishes to thank the Government of Germany for information he received by phone with regard to the extradition of Mr. Rebai to Algeria. It was brought to the Special Rapporteur's attention that the authorities had stopped the extradition procedure, and that the request of Mr. Rebai not to be extradited would be reconsidered by the German authorities.

Guatemala

208. As in previous years, the Special Rapporteur received alarming reports about the situation of the right to life in Guatemala. It has been alleged that despite the Government's commitment to respect human rights and fight impunity, human rights violations persist. The Special Rapporteur has been informed that 350,000 to 500,000 civilians are still enrolled in Comités de Voluntarios de Defensa Civil, also known as Patrullas de Autodefensa Civil (PAC), which allegedly cooperate with the army. According to information received, they are considered to be responsible for a large number of human rights violations in Guatemala.

209. In addition, non-governmental organizations continue to claim that impunity persists and that there is no evidence of efforts to investigate human rights violations which occurred in previous administrations. They also stress the failure of the authorities to bring to justice those responsible for human rights violations.

210. The Special Rapporteur also wishes to express his concern about information he received indicating that in March 1995, the Congress in Guatemala approved the extension of the death penalty to anyone convicted of kidnapping, including accomplices who threaten to kill victims of kidnapping.

211. For an in-depth analysis of the situation of human rights in Guatemala, the Special Rapporteur refers to the report of the independent expert on Guatemala (E/CN.4/1996/15).

Allegations transmitted

212. The Special Rapporteur sent 13 urgent appeals to the Government on behalf of the following persons:

(a) Human rights activists: Senayda Cana Chanay, member of the Grupo de Apoyo Mutuo por el Aparecimiento con Vida de Nuestro Familiares (GAM), after reportedly being harassed by police assigned to protect her after an attempt against her life (16 February 1995); Miguel Sucuquí Mejía, Juana Tipás Gonzáles, Emilia García, Samuel Hernández, Daniel Pascual Hernández and Guillermo Fernández, representatives of Frente Nacional de Organizaciones de Derechos Humanos en Guatemala, after fears were expressed that they could suffer reprisals upon their arrival in Guatemala for their attendance at the fifty-first session of the Commission on Human Rights (13 March 1995 and 11 April 1995);

(b) Journalists: José Rubén Zamora Marroquín, director of the newspaper Siglo Veintiuno, reportedly threatened by unidentified men believed to have links with the Government (1 March 1995); Gerson Ricardo López, Oneido Najarro, Edgar Aragón, Martín Juárez, Vinicio Pacheco, Julieta Cárdenas, Héctor Solis, Nery Morales and Edwin Palacios, after their names reportedly appeared on a blacklist of journalists drawn up by an alleged paramilitary group named Comandos para acciones de liberación (19 April 1995);

(c) Indigenous leaders: Julio Morales Reyes and other workers at the Coordinadora Cakchiquel de Desarrollo Integral (COCADI) (Cakchiquel Coordinator for Holistic Development), reportedly after an attempted attack against his life (9 March 1995); Catarina Terraza Chávez, an Ixil Maya and indigenous leader, after she reportedly was threatened by a member of the G-2 military intelligence (21 March 1995); Rev. Vitalino Similox, General Secretary of the Conferencia de Iglesias Evangélicas de Guatemala, Pastor Lucio Martínez, working with the human rights commission of the Caqchikel presbytery, and Margarita de Similox, leader of the Maya Quich Presbyterian Women's Movement, after they received death threats for their investigations into the killing in June 1995 of Manuel Saquiq Vázquez, an evangelical pastor and coordinator of the Kaqchikel Maya Human Rights Committee in Panabajal (14 August 1995);

(d) Trade union leaders: Félix González, Débora Guzmán Chupén, Julio Coj, José Gil, trade unionists and 49 workers at Lunafil S.A., after they had received death threats and intimidation (17 March 1995, 2 June 1995 and 30 August 1995);

(e) Students: Lisbeth Valenzuela Bustamante and Luis Samayoa Barrera, law students at the University of San Carlos (11 April 1995); Ervin González Barrientos, aged 18, reportedly intimidated and threatened by members of the National Police of Santa Lucía Cotzumalguapa (1 September 1995).

213. In addition, allegations of extrajudicial, summary or arbitrary executions of the following persons were sent to the Government:

(a) Reportedly killed by the armed forces: Antonio Simon Gabriel and José Simón Pérez Morales, indigenous people and members of the Comité de Unidad Campesina (CUC); Antonio Nisthal Recinos, counsellor of the Comisión de Agricultura del Congreso Nacional; Mynor Rolando Argueta Estrada, professor at Rafael Landivar University; Edgar R. Elias Ogaldez, judge in Chimaltenango, reportedly killed by members of the armed forces; Abel Ramírez Pérez, Manuela Mateo Pascual, Maurilia Coc Macs, aged 7, Pedro Medina Sánchez, Santiago Coc Pop, aged 8, Paulo Coc Coc, Juana Jacinto Felipe, Hilaria Morente de la Cruz, Pedro Diego Andrés, Andrés Miguel Mateo and Fernando Choc Chic, 17 years old, indigenous peasants reportedly killed during an attack by members of the Guatemalan armed forces against the community of Aurora 8 de Octubre or Xamán, reportedly made up of refugees, mostly of Kekchi indigenous origin, allegedly resettled in the Chisec area after their repatriation from Mexico;

(b) Reportedly killed by members of the national police: Conrado Ramirez García, reportedly killed by four soldiers of the Presidential Guard; Rubén Darío Flores Jiménez, President of the Asociación de estudiantes del Instituto Normal para Varones de Oriente, reportedly killed by officers of the national police; Edwin Orantes Martínez, 17 years old, reportedly killed by an armed man alleged to be a member of the Dirección de Investigaciones Criminológicas (DIC) of the National Police;

(c) Reportedly killed by paramilitary groups: Juan M. de Jesús Alonso, trade unionist of Central General de Trabajadores de Guatemala, reportedly killed by a paramilitary organization called Jaguar Justiciero II; Borki Ulianov Tacatic Cáceres, human rights activist, reportedly killed by members of a paramilitary group in Jalpateagua.

214. In addition, the Special Rapporteur transmitted the case of Juan Pacheco Escobar, peasant, reportedly found dead after having disappeared during a confrontation between the armed forces and the guerrillas.

Communications received

215. The Government provided information on several cases which had been transmitted by the Special Rapporteur in 1994 and 1995. Judicial proceedings had been initiated in the following cases: Sergio Miguel Fuentes Chávez (7 December 1994); Felipe León Naz, and threats to his parents Francisco León and Manuela Naz and his wife (4 January 1995).

216. The Government also provided information on the attempted murder of Monseigneur Rodolfo Quezada Toruño, President of the Asamblea de la Sociedad Civil. According to the reply an investigation led by the Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (COPREDEH), the attack was not directed against Monseigneur Rodolfo Quezada (12 January 1995). In the same communication, information was provided in respect of the cases of Efraín Castro Lux, Roberto Solares and Victor Manuel García, stating that judicial proceedings were initiated against two private security guards who had been accused of the murder of Efraín Castro Lux and Roberto Solares.

217. The Government also provided a reply to the cases of Jorge Carpio Nicole and three others, namely Rigoberto Rivas González, Alejandro Avila Guzmán and Juan Vicente Roberto Villacorta Fajardo. According to the Government, most of those initially accused of the killings were released and no one had been charged with the murder. Judicial proceedings were under way (26 April 1995).

218. Concerning the case of threats and harassment received by Débora Guzman Chupén, Félix González, Julio Coj and José Gil, trade union leaders, investigations had been initiated and police protection had been granted to those at risk (24 May 1995). In addition, the Government stated that investigations were under way in the cases of: Juan Carlos Ruiz Ramirez (a 15-year-old student), reportedly killed by members of the national police (1 June 1995); Senayda Cana Chonay (6 June 1995); Vitalino Similox, Blanca Margarita de Similox and Lucio Martinez Pic who received death threats from a paramilitary group (1 and 12 September 1995).

219. Information was also provided about the killing of Manuel López. The case was under investigation and judicial proceedings were under way. The Government said that there is no evidence that members of State forces were involved in the allegations as alleged by the sources of the Special Rapporteur (9 August 1995).

220. Regarding the case of Rolando Argueta Estrada, the Government confirmed that he was killed by a lieutenant of the army who was sentenced to 12 years' imprisonment. In the case of Rubén Darío Florez Jiménez, the Government informed the Special Rapporteur that the police officer responsible for his death was sentenced to 25 years' imprisonment. Moreover, in relation to the killing of Borki Ulianov Tacatic Cáceres, the Government provided a reply, according to which he had been the victim of a common crime and the perpetrators had no links with the security forces. The Government further informed the Special Rapporteur that investigations were under way in the case of Juan Manuel de Jesús Alonso (21 November 1995).

221. Concerning the killing of Edgar Ramiro Elias Ogaldez, judge of Chimaltenango, reportedly killed by members of the armed forces, the Government expressed its deepest concern and asserted that investigations to clarify the incident and to bring those responsible to justice were being undertaken. The Government also informed the Special Rapporteur that two members of the armed forces had been detained in respect of the killing of Conrado Ramírez García and that judicial proceedings had begun. Regarding the case of Juan Pacheco Escobar, the Government declared that no complaint had ever been made on his behalf and that no investigations had been initiated. The Government requested the Special Rapporteur to provide more details regarding the case. In relation with the case of the minor Edwin Américo Orantes Martínez, reportedly killed by a member of the Departamento de Investigaciones Criminológicas (DIC) of the National Police, investigations with the aim of identifying such an individual had been initiated. Investigations were being carried out with the support of the Junta Permanente de la Niñez (21 November 1995).

222. The killing of Antonio Vicente Nishtal Recinos by a member of the army, Hector Rubén Melgar Rodríguez, was subsequently confirmed by the Government of Guatemala. In this sense, the Government further informed the Special

Rapporteur that following the incident in which Antonio Vicente Nishtal Recinos was killed, a confrontation between members of the National Police and Hector Rubén Melgar Rodríguez resulted in his death. Regarding the death of Antonio Simón Gabriel and José Simón Pérez Morales, the reply from the Government stated that investigations were being conducted and that there is no evidence that members of the army were involved in the incidents (21 November 1995).

223. Furthermore, the Government provided a reply to the case where 11 members of the community Aurora 8 de Octubre were killed. According to the reply provided, the President of Guatemala requested the competent authorities to initiate exhaustive investigations in the events. The Government further informed the Special Rapporteur of the dismissal of the Commander of Military Zone No. 21 and the resignation of the Minister of National Defence. The President of the Republic also requested the Fondo Nacional para la Paz (FONAPAZ) to carry out a study with the aim of compensating and providing indemnity to the families of the victims. Military officials involved in the incidents were immediately referred to the competent courts and were currently being detained at the Centro Preventivo del Segundo Cuerpo de la Policía Nacional where they were awaiting trial. The Government of Guatemala expressed its deep sorrow at the tragic events (21 November 1995).

224. Regarding the death threats against Lisbeth Valenzuela Bustamante and Luis Samayoa Barrera, the Government informed the Special Rapporteur that they had both been contacted by members of COPREDEH and were offered the possibility of requesting protection from the National Police.

Follow-up

225. The Special Rapporteur thanked the Government for the replies provided and sought additional information in the cases of Efraín Castro Lux; Roberto Solares; Victor Manuel García; Senayda Cana Chanay; Juan Carlos Ruíz Ramírez; Débora Guzmán Chupén; Jorge Carpio Nicolle; Felipe León Naz; Sergio Miguel Fuentes Chávez; Manuel Pedro López and Efraín Bamaca. In the same letter the Special Rapporteur reminded the Government of those cases for which a reply had not yet been transmitted (22 August 1995).

Observations

226. The Special Rapporteur wishes to thank the Government of Guatemala for the detailed replies provided concerning the large number of cases transmitted. He welcomes the sentences imposed on members of the police and the military for violations of the right to life, and reiterates his request to the Government to take firm action to put an end to impunity. None the less, he expresses deep concern at the excessive use of force by law enforcement officials, which led to tragic events, such as that of community Aurora 8 de Octubre, where 11 persons were killed.

227. The Special Rapporteur considers that the establishment of the Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) is a decisive contribution to the continuous attempts by all parties involved to put an end to violations of the right to life in Guatemala. He regrets,

however, that both parties, the Government and the Unidad Revolucionaria Nacional Guatemalteca, are reported to have violated certain commitments under the 1994 Comprehensive Agreement.

## Honduras

228. Reportedly, since 1993 reforms to reduce the power of the military and improve the police system have been taking place in Honduras. Some of the reforms include preventive safeguards against human rights violations. The reform process was reportedly speeded up with the appointment in 1994 of the Attorney-General (Fiscal General) at the head of the Ministerio Publico, which is in charge of investigating all complaints of human rights violations. In addition, the Special Rapporteur was also informed that the Dirección Nacional de Investigaciones (DNI), reportedly involved in a large number of human rights violations, has recently been replaced by the Departamento de Investigación Criminal (DIC).

### Allegations transmitted

229. The Special Rapporteur sent three urgent appeals after being informed of fears for the lives and physical integrity of the following persons: Andrés Pavón Murillo, Regional President of the Comité para la Defensa de los Derechos Humanos en Honduras (CODEH), after he received death threats from unidentified men reportedly connected with the security services of the Honduran armed forces (7 December 1995); Norma Bessy Jeresano de Rivas, Oscar Wilfredo Jeresano Murillo, Mayra Betancourth, Bessy Maribel Jeresano Betancourth, Juan Pablo Rivas Jeresano and other members of the Jeresano family, after Juan Pablo Rivas Calderón, husband of Norma Bessy Jeresano de Rivas, was reportedly shot dead in San Pedro Sula (21 March 1995); José Dolores Rivera Rodríguez, an army lieutenant, after receiving death threats reportedly from officers of a higher rank (21 April 1995).

### Communications received

230. Regarding the Jeresano Rivas family, the Government stated that the case had been considered by the Inter-American Commission on Human Rights and that the competent authorities were taking appropriate measures to ensure their safety. In addition, the Government informed the Special Rapporteur of the existence in Honduras of a Comisionado Nacional para la Protección de los Derechos Humanos and a Fiscal Especial para la Protección de Derechos Humanos (Special Prosecutor for the Protection of Human Rights), to which persons threatened or harassed might refer (19 May 1995).

## India

231. The Special Rapporteur received numerous reports of violations of the right to life in India. Numerous allegations were received concerning deaths in custody resulting from torture and ill-treatment inflicted by police personnel despite the Government's official condemnation of such practices. According to the reports received it would appear that most cases of deaths in custody under torture occur during the preliminary stage of detention when access to outsiders is routinely denied. The alleged perpetrators of these

human rights violations are often members of the police or armed forces who enjoy virtual impunity. A large number of the violations of the right to life were reportedly committed in regions where security forces maintain a strong presence as a result of counterinsurgency operations of the Government. Jammu and Kashmir, Punjab and Uttar Pradesh have been singled out to the Special Rapporteur as being particularly affected.

Allegations transmitted

232. The cases transmitted to the Government include numerous deaths in custody of Naxalite activists and persons of Naga ethnic origin. The Special Rapporteur transmitted 84 cases of alleged extrajudicial, summary or arbitrary executions:

(a) The following persons reportedly died while in custody as a result of torture: Mittampalli Srinivas and Malla Ramesh; W. Deven Singh; Kuldip Singh, who died whilst being taken to the hospital from Tihar prison in New Delhi; Satish Kumar, aged 13; Manoj Kumar and Puroshottam Kumar, who died in Naubatpur police station, Bihar; Hifajat Karim, beaten to death by police in Barbhanga jail; Ram Kumar; Bundu, aged 80; Romancel Deep, aged 14; Varikuppala Shankaraiah; six prisoners of Pilibhit jail, all Sikhs of Uttar Pradesh, were killed following beatings by prison wardens;

(b) Reportedly killed by police officers: Rajesh Dhawan; Nathu Alias Ayub Khan and four other persons, killed when a police subinspector entered the mosque at Milal Masjid and fired on the assembly; Shahid and four other unidentified individuals; Ekkati Veeranna, a peasant youth; Muppu Mogili; Kasaria Kanakaiah; Koppula Shankar; Mada Santosh, Puli Mohan and Yugandhar Reddy, who were reportedly shot dead by police in Chalivagu following their arrest; Shivarati Swamy; Bayya Mallesham; Sadum Mallikarjun; Jaganath Ram; Gundeboina Anjaiah and Padma were arrested and killed in Jangaon; Kanakanna; Tirupati and Seshaiah; Tokala Jayanth; Rai Sidam Ballarshah, a member of the Mangi tribe; Chencharapu Venkat Reddy, Esam Jaggaiah and Bonotu Seetaram, who were tortured and shot dead; Gujjeti Santosh and Banda Ravinder; Chilimula Tirupati; M.D. Rahimuddin and Ragalla Sambaiah; Gajula Bhumaiah; Chinaboina Sammaiah; Mala Narsimha; Gudipelli Jaipal; Ravula Swamy and Gollapalli Chandraiah; Narasimha; Jaganath Ram; Neerupalli Balayya, Poldasu Lokaswany, Boya Srinivasulu and Sudhakar Gowd, who were arrested and killed by the police in retaliation for the death of police personnel in a land-mine blast by Naxalites near Somasila;

(c) Reportedly killed by indiscriminate shooting by the police: Komaram Anand, Sugemanchi Anand and Rachuri Malyadri, killed during a raid in Rayalagandi, Amrabad Mandal; Bhimuni Gattaiah, killed when police opened fire on an assembly organized by the Naxalites in Kaluvapalli; Chityal Mandal; Hari Biswakarma, a Nepali woman who died following an attack by police in West Bengal;

(d) Reportedly killed by members of the army: Abdul Rashid Dar; Ghulam Muhammad Lone, journalist, and his seven-year-old son; two unidentified individuals killed following interrogations by soldiers of the 2nd Grenade Battalion; 14 unidentified persons reportedly killed when the 16th Maratha Light Infantry and the 10th Assam Rifles went on a rampage in Mokochung,

Nagaland (north-east India); seven Naga civilians, among them two children, killed in Kohima (north-east India) by personnel from the 16th Rashtriya Rifles;

(e) Javeed Ahmad, Ghulam Nabi, Mushtaq Ahmad, Pir Bashir Shah and Abdul Rashid Bhat, who were reportedly killed at Gada Kocha by paramilitary forces in retaliation for an attack by Kashmiri rebels.

233. In addition, the Special Rapporteur transmitted the cases of: 26 people, including 14 children and 7 women, who were reportedly killed by law enforcement forces in Khagaria; 113 unidentified people, members of the Gauri tribe, reportedly killed in a demonstration in Nagpur (western India); Dontula Markandeya (Shankar) and Vijaya were shot dead by police during a raid on their house in Nizamabad.

Communications received

234. On 22 November 1995, the Government of India provided the Special Rapporteur with replies to cases which were sent in 1992, 1994 and 1995.

235. 1992 cases. The Government replied that no person named Rajender Prasad Sharma had been detained on 21 October 1991. Inquiries into the deaths of Bashir Ahmad and Ram Vilas had concluded that they were due to natural causes. Raisl alias Ayyyan Ahmad had died as a result of the consumption of "smack". Rajaboyina Kasulu and Singh Bisht had committed suicide while in custody. Nasir Khan and N. Krishnamohom Singh drowned while trying to escape police custody. An investigation by the Criminal Investigation Department (CID) was still under way in the cases of Susil Kumar Baigkhadia, Dushyant Tyagi and Dr. Anis Ansari. A magisterial inquiry was terminated, and a criminal case had been filed against those officials responsible in the following three cases: 16 unidentified persons, compensation had been paid to the families of the deceased; Jaganvath, compensation had been ordered by the High Court; and Kuber Lal. Rahisuddin had died due to beatings by private persons, not by public officials.

236. 1994 cases. Investigations were still under way in the cases of Udayan Raju Bhujel and Madan Lal. Inquiries by the CID had concluded that Shankar Lal Aoni had died of natural causes. After investigations by the CID, responsibility was attributed to State officials in the cases of Mahimam Kasuhik and Mahesh Jain. Rajender Singh had committed suicide. Investigations in the cases of Chitar Lal, Rajesh Singhal and Teja Ram Bhil were concluded and a criminal case was filed against the State officials responsible.

237. 1995 cases. Magisterial investigations in the following cases had concluded that there was a prima facie case against the police, law enforcement officials or government officials. Court proceedings were under way in the following cases: Sukhdev Singh, Labha Singh, Tarsem Singh, Sarvjit Singh, Karaj Singh, Jeet Singh. The death of Ghulam Mohammad Lone was the result of a common crime. In the following cases magisterial investigation concluded that police had acted in self-defence and in discharge of its duties: Chinaboina Sammaiah; Muppu Mogili and Mada Santosh; Puli Mohan; Ragalba Sambaiah and Md. Rahimuddin; Bhimuni Gattaiah; Gijeh Santosh

and Banda Ravinder. Inquiries had concluded that Ekkati Veerajah had died during an encounter. Magisterial inquiries concluded that the death was due to a natural or other cause in the cases of Kuldip Singh, who died due to a heat stroke, and Romancel Deep, who committed suicide. Judicial proceedings were under way in the case of Satish Kumar. A magisterial inquiry was under way in the following cases: Bayya Mallesham, Yugandhar Reddy, Markandeya (Shankar) Dontula and Vijaga. A magisterial inquiry was under way in the following cases of prima facie deaths during an encounter: Gajula Bhumawah; Gundeboina Anjaiah (Balanna) and Padma; Tirupati; Seshaiah; Tokala Jayanth; Abdul Rashid Dar; Sheikh Mohd. Yasir and Habibullah Bhat; Salim Hameed, Javeed Ahmad, Ghulam Nabi, Mlusthaq Ahmad, Pir Basir Shah, Abdul Rashid Bhat; Kasaria Kana Kaiah; Shivarati Swamy; Sadum Mallikarjun.

Observations

238. The Special Rapporteur wishes to thank the Government for the replies provided. However, he remains deeply concerned by the reported failure of the Government to prosecute members of security forces involved in human rights violations.

239. In addition, he expresses his dismay at allegations of deaths under torture and the lethal force used by security forces in their efforts to curb the separatist movement in Jammu and Kashmir. Such reports, which have been received consistently since the Special Rapporteur took over this mandate, seem to indicate the existence of a pattern of violations of the right to life.

240. In view of the increase of the allegations of death in custody, the Special Rapporteur calls on the Indian authorities to strengthen safeguards regarding the interrogation of suspects, ensure that police do not use force to extract information from detainees and impose police accountability for human rights violations. The Special Rapporteur urges the authorities to make every effort to ensure that perpetrators of torture, ill-treatment and the shooting to death of unarmed civilians are brought to justice.

241. Due to the systematic allegations of violations of the right to life in India, the Special Rapporteur would like to reiterate his interest in visiting India so as to be in a better position to assess the situation of the right to life. As stated in previous years, such a visit would allow the Special Rapporteur to make recommendations from which the National Human Rights Commission could benefit, and to obtain a better understanding of its functioning in practice as well as obstacles faced by it. He is concerned that no substantial progress has been made since 1993 regarding his proposed visit.

## Indonesia

242. The Special Rapporteur received reports suggesting that violations of the right to life continue throughout Indonesia and East Timor. The Special Rapporteur received allegations about increased industrial unrest in the country, caused by demands for wage increases and the prohibition of free

trade unions. Protests relating to these issues are alleged to be frequently met with violence and are said to have resulted in imprisonments, injuries and deaths of protesters.

243. The Indonesian police and military are reported to continue to commit human rights violations with virtual impunity. According to the information received by the Special Rapporteur, in the majority of cases the violations are not systematically investigated by the authorities, and it has been alleged that military officers have discretion in deciding whether or not to proceed with a case. Perpetrators are reportedly hardly ever brought to justice and in cases where investigations do take place, the majority of them are conducted by the security forces and frequently even by members of the unit believed to be responsible.

244. Furthermore, the Special Rapporteur received reports about the recurrence of death sentences carried out in Indonesia. In January 1995, the first two persons on death row were said to have been executed after a halt in executions since December 1992. The Special Rapporteur received reports of prisoners who had been detained on death row for many years, sometimes more than 20, awaiting their execution. It was also brought to the Special Rapporteur's attention that prisoners who have been sentenced to death by civilian courts after appealing to the High Court and Supreme Court respectively have the right to request presidential clemency. However, clemency is seldom granted and many prisoners are thus reportedly refusing to request it for fear that it will close the last legal avenue available to them and hasten their death. Disturbing reports have been received containing allegations that since this is causing legal and administrative problems, judicial and executive authorities have in some cases requested clemency for prisoners either without their knowledge or against their will, thus risking arbitrary use of it by both the judicial and the executive branches of the Government.

245. Concerning the human rights situation in East Timor, the Special Rapporteur continued to receive reports in 1995 about violations of human rights including violations of the right to life by members of the security forces and armed forces. Since November 1994, an increased number of pro-independence demonstrations have reportedly taken place in East Timor, which were allegedly frequently met with violence by security forces, resulting in excessive use of force, arbitrary arrests, detention and torture. The Special Rapporteur was informed that demonstrations were sometimes violent, and that there were increasing ethnic tensions between East Timorese and Indonesian immigrants. Information was also brought to his attention with regard to acts of harassment and attacks against civilians by so-called Ninja gangs, allegedly acting in connivance with the Indonesian security forces. These hooded individuals have allegedly been involved in attacks against pro-independence activists since the widespread unrest resurfaced in November 1994.

Allegations transmitted

246. The Special Rapporteur sent one urgent appeal to the Government after receiving additional information concerning Kamjai Khong Thavorn, a Thai seaman who was reportedly facing imminent execution, and for whom a previous

urgent appeal had been sent in 1993 (see also E/CN.4/1994/7, para. 350). The trial as well as the subsequent appeals and legal procedures had allegedly been conducted in the Indonesian language which at the time was neither understood nor spoken by Mr. Khong Thavorn. The Special Rapporteur was furthermore informed that prison officials were reported to have filed a clemency appeal on behalf of the defendant, without the defendant's full agreement or understanding and without informing his lawyers (8 February 1995).

247. Furthermore, the Special Rapporteur sent 33 cases to the Government of Indonesia concerning the alleged violation of the right to life of 47 persons. The majority of the killings reportedly took place in 1994.

248. The Special Rapporteur received a number of reports containing allegations of extrajudicial killings of labour activists which occurred in 1993 and 1994, and sent the cases of the following labour activists to the Government of Indonesia: Titi Sugiarti (female) actively involved in planning a strike for higher wages, reportedly tortured and killed by unknown persons in Bandung; Rusli, reportedly found dead after his participation in a strike which was reportedly ended by the security forces, in Medan, North Sumatra; Marsinah (female) allegedly raped and killed in May 1993 after involvement in a strike at a watch factory in Porong.

249. Moreover, the Special Rapporteur transmitted to the Government of Indonesia four cases of alleged extrajudicial executions in East Timor. One concerned the killing of six unidentified civilians who were reportedly shot dead by Indonesian soldiers in Liquiza, West Dili, on 13 January 1995. After sending the case to the Government, the Special Rapporteur received additional information in which it was reported that the National Commission on Human Rights had announced at the end of February 1995 that the victims of the Liquiza killings were civilians and not guerrillas killed in an army ambush, as had been stated by the armed forces. The authorities had reportedly announced that an Honorary Military Council was to investigate the killings. The Special Rapporteur also transmitted the following cases to the Government of Indonesia concerning alleged violations of the right to life in East Timor: Nelson da Costa Mello Ribeiro and two unidentified persons, who were reportedly killed by members of the Military Intelligence Units (SGI) in the Villa Verde Area, Dili, East Timor, in mid-June 1995; Domingos José Dos Reis and Alfonso Sarmento, who were reportedly killed on 1 January 1995 when security forces opened fire on a crowd of demonstrators in Baucau; Marcelino Freitas and Agostinho Belos, reportedly killed by members of Indonesian Army Battalion 745 on 21 July 1995 at Wailacama-Baucau.

250. The Special Rapporteur sent the following cases to the Government in 1995:

(a) Alleged killings by the police: Sudarmono, reportedly tortured to death in Indramayu, West Java; Humala Hutabarat (alias Wool Poltak), allegedly shot dead in Central Jakarta; Kuat Ginting, reportedly shot dead in Cililitan, East Jakarta; M. Maknum, reportedly killed in Duran Sawit, East Jakarta; Nurahman (alias Mejing Bintaryadi), reportedly killed in South Jakarta; Acan (alias Warsan), reportedly killed in Jakarta; Yanto (alias Sumer), reportedly killed in Jakarta; Johny Ceking, reportedly killed in

Selabinatanam, Sukabumi; Sulaiman, reportedly shot dead in Cipnang Muara, Jakarta Timur; Ramin Rakujan and Nurhudin Rahmani, reportedly shot dead in Teluk Gong, North Jakarta; Lamsir Bin Pawiro Pandi, reportedly shot dead in Boyolali, Central Java, by the Forestry Special Police (Polis Khusis Hutan); Rudyanto, reportedly shot dead in Tentena, Sulawesi Tenggara. The following four cases concerned alleged killings by the police which reportedly occurred in 1994, while victims were trying to escape while they were showing police hideouts of accomplices: Muka Situmeang; Sugeng, in Karet Tengsin, Central Jakarta; M. Amsir, reportedly killed in East Jakarta; Denny Irawan, reportedly shot dead in Ciracas, East Jakarta;

(b) Alleged killings by security forces: Abdul Manan, Jaenuddin, Ahmad and Wayudin, one of them a 12-year-old boy, all four members of a religious community, who were reportedly killed on 29 July 1993 by officials of the security forces in Sinargalih, Majalengka, West Java; Misran, who reportedly died as a result of the use of excessive force by security forces in response to a demonstration in Desa Ksikan, Riau;

(c) Alleged deaths in custody: Syamsul Bahri, who reportedly died after being beaten and shot at the police station of Pangkalanbrandan, North Sumatra; Jupri, reportedly killed by police in Wijaya Kesuma, West Jakarta; Tony Matondang, who was reportedly shot dead in East Jakarta by members of the police of Polres Jakarta Timor; Kadimum, who reportedly died after being beaten whilst in police custody in Bantul, Lampung; Hartono, who was reportedly shot dead in West Jakarta; Djatmiko, who was reportedly beaten to death in December 1992 by prison guards during detention at Sragen prison in Central Java; "Maman", who was reportedly killed whilst in police custody in Cipinang, East Jakarta;

(d) Alleged killings by members of the armed forces: Mat Juri, reportedly shot dead in Bangkalan, Madura;

(e) Alleged execution after unfair trial: Chan Ting Chong (alias Steven Chan), of Malaysian nationality, reportedly executed on 13 January 1995 after an unfair trial, in Cibubur, East Jakarta.

Communications received

251. The Government replied to the urgent appeal of 8 February 1995 regarding allegations concerning the case of Khong Thavorn Kamjai. The Government referred the Special Rapporteur to the reply that had been provided in 1993 (E/CN.4/1994/7, para. 352) (9 February 1995).

252. The Government provided a reply to a number of cases containing allegations of extrajudicial, summary or arbitrary executions in Aceh and East Timor, which had been sent by letter of 27 April 1993. The Government stated that the list of people allegedly executed arbitrarily had also been communicated by the Working Group on Communications of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which had subsequently decided not to take any action in respect of the communication. In the same letter, the Government provided the Special Rapporteur with replies regarding the following cases which were sent by the Special Rapporteur in 1994. In the case of the death in custody due to torture during

interrogation of Jerry Manafe, those responsible had been tried and sentenced to imprisonment by the military court of Kupan. In the case of the death of Abilio Sarmento, the Government replied that he had died in a car accident upon return from his daily work. The Government stated that allegations concerning the death of Jong Kim Jong were not correct, since he had been killed in an ordinary criminal case. Regarding allegations of the killing of six people in Mai-Woi village on 30 October 1994, the Government denied that these killings had occurred and stated that no such persons exist. The Government failed to reply to other allegations that were sent and stated that they were "sheer allegations for their own sake". The Government replies have been transmitted to the sources (31 January 1995).

253. In addition, the Government responded to the cases sent in September 1995 concerning a number of alleged executions. The Government informed the Special Rapporteur that in the case of the alleged extrajudicial execution of Nelson da Costa Mello Ribeiro and two unidentified persons, which had occurred in the area of Villa Verde, Dili, a two-month investigation had concluded that no extrajudicial killings had been carried out by the intelligence unit in that area. The Government also informed the Special Rapporteur that Domingos José Dos Reis and Alfonso Sarmento had not been killed. Furthermore, the Government replied that Agostinho Belo and Marcelino Freitas had died in a clash with the security apparatus, which had acted in self-defence, on 27 July 1995 (20 November 1995).

Observations

254. The Special Rapporteur thanks the Government of Indonesia for the replies provided to the Special Rapporteur in 1995. He would, however, like to bring to the attention of the Government of Indonesia the fact that the rejection of a communication by one mechanism within the United Nations human rights system does not relieve a State from its obligation under international law to cooperate with other mechanisms. The rejection in casu by an organ functioning under the confidential "1503 procedure", therefore, does not prevent a special rapporteur with a mandate under which information is made public, as established by the Commission on Human Rights, from considering the cases within the framework of his mandate. The communications received by the source contained allegations of extrajudicial executions, and would therefore fall within the competence of the Special Rapporteur on extrajudicial, summary or arbitrary executions. The Special Rapporteur therefore requests the Government of Indonesia once again to respond to his communication sent on 27 April 1993 regarding several cases of alleged extrajudicial, summary or arbitrary executions.

255. The Special Rapporteur regrets that no reaction has been received from the Government with regard to the recommendations made upon his visit to Indonesia and East Timor in 1994 (E/CN.4/1995/61/Add.1, paras. 77-88). He hopes, however, that the dialogue started during the visit will continue, in particular through the visit of the High Commissioner for Human Rights as requested in the statement of the Chairman of the Commission on Human Rights in 1995. Moreover, he hopes that the visit of the High Commissioner will facilitate discussion of his recommendations with the Government of Indonesia.

256. The Special Rapporteur encourages the National Human Rights Commission to continue its investigation of human rights violations in Indonesia, with the hope that procedures will be more formal and strengthened by the application of relevant international standards. The Special Rapporteur remains concerned, however, about the reports and allegations that were brought before him concerning extrajudicial and summary killings by police and security forces. He also expresses his deep concern about the large number of deaths in custody that are reported to have occurred, particularly in Java and in Jakarta, and he calls upon the Indonesian Government to investigate these allegations and to take measures to prevent such incidents from recurring.

257. With regard to the situation in East Timor, the Special Rapporteur remains deeply concerned about the ongoing unrest and the violence. He urges the Government to make sure that the force used in response to demonstrations, even those that are violent, will be in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

## Iran (Islamic Republic of)

258. The Special Rapporteur received information about the lack of procedural safeguards in trials before Islamic Revolutionary Courts which lead to the imposition of capital punishment. The death penalty in Iran is reportedly used for crimes ranging from espionage and drug-trafficking to adultery and murder. Reports concerning attacks against members of the political opposition to the Government in and outside the Islamic Republic of Iran, allegedly by unidentified individuals reportedly linked to the Iranian security forces, were also received.

259. For an in-depth analysis of the situation of human rights in Iran, the Special Rapporteur refers to the report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1996/59).

### Allegations transmitted

260. The Special Rapporteur sent urgent appeals on behalf of the following persons: Yshar Parvis Sasson, reportedly sentenced to death on charges of having links with zionism and being in possession of a falsified passport (3 February 1995); Saba'Abd'Ali and Zaynab Haydari, allegedly at risk of execution by stoning after they had been sentenced to death for adultery (17 July 1995); Fazel Khodadad, a 50-year-old businessman, reportedly sentenced to death by hanging for an economic offence (17 November 1995). The Special Rapporteur learned with regret that the person was executed on 22 November 1995.

261. In addition, the following cases of alleged extrajudicial, summary or arbitrary executions were also sent to the Government: Ali Akbar Sa'Idi Sirjani, a well-known writer opposed to censorship, who reportedly died while in detention; Haji Mohammad Ziaie, a Sunni Muslim leader known to be critical of government policies, who was reportedly found dead beside his car; 10 unidentified demonstrators who were reportedly shot dead by armed forces of the Iranian Revolutionary Guard during riots in the town of Akbar-Abad.

262. Furthermore, the following members of the Mojahedin Khalq Movement were said to have been killed in Baghdad, Iraq, by unknown armed men allegedly acting under the orders of Iranian authorities: Effat Haddad, Feresheth Esfandiri, Seyed Hossein Sadidi, Ibrahim Salimi and Yar-Ali Gartabar Firouz. The case was also transmitted to the Iraqi authorities, who were requested to carry out investigations of the allegations.

Follow-up

263. The Special Rapporteur addressed a letter to the Government of the Islamic Republic of Iran requesting more specific information about the killings of Reverend Mehdi Dibaj and Reverend Mikhailian. The Government had informed the Special Rapporteur on 15 August 1994 that members of a terrorist organization called "Mojahedin Khalq of Iran" (MKO) were responsible for their deaths. According to the Government, the attribution of these murders to the Islamic Republic of Iran was part of a strategy to intensify international pressure against Iran.

264. The Special Rapporteur informed the Government of Iran that recent information which he received from different sources questioned the involvement of MKO in the incidents. The Iranian authorities held three women, Farahnaz Anami, Battol Vaferi and Maryam Shahbazour, reportedly members of MKO, responsible for the killings. However, it was brought to the Special Rapporteur's attention that MKO had never recognized the women as members of the Movement. In addition, several sources continued to stress that both Reverend Mehdi Dibaj and Reverend Mikhailian had been threatened on previous occasions, allegedly by Iranian authorities, for having campaigned in favour of religious freedom in Iran. Therefore, the Special Rapporteur reiterated his demand for further information. He also reminded the Government of the cases sent in 1995 for which a reply had not been received, particularly in respect of the cases of Bishop Haik Howsepian Mehr and Feizollah Mekhoubad, sent to the Government in 1994 (17 October 1995).

Observations

265. The Special Rapporteur regrets that no replies to his letters have yet been received. He is concerned about reports of extrajudicial, summary or arbitrary killings abroad of opponents of the Iranian Government. The Special Rapporteur continues to express dismay at attacks against religious minorities and regrets that investigations have been concluded in only a few cases. He continues to express concern for the large number of executions in Iran, including for drug and sexual offences.

## Iraq

266. According to reports received, at least nine decrees establishing severe penalties such as amputations, branding and the death penalty for criminal offences, including theft, currency speculation, military desertion and corruption, were issued by the Government at the beginning of 1994. Reportedly, doctors had been imprisoned and sometimes executed for refusing to perform punitive amputations and branding. In addition, special provisional

courts have been reportedly established to deal with certain political offences. It was alleged that these courts operated without regard for legal safeguards, such as the right to legal representation.

267. For an in-depth analysis of the situation of human rights in Iraq, the Special Rapporteur refers to the report of the Special Rapporteur on the situation of human rights in Iraq (E/CN.4/1996/61).

Allegations transmitted

268. The Special Rapporteur transmitted to the Government of Iraq allegations concerning the extrajudicial, summary or arbitrary executions of the following individuals: 30 money changers, reportedly killed in Al-Hartheya area by Iraqi security police, after having been accused in a newspaper article of being responsible for the devaluation of the Iraqi dinar; 200 unidentified persons, of whom at least 100 were civilians, allegedly killed after clashes with Iraqi military forces in the city of Al-Ramadi.

269. In addition, the Special Rapporteur requested the authorities to conduct investigations into the cases of Effat Haddad, Feresheth Esfandiri, Seyed Hossein Sadidi, Ibrahim Salimi and Yar-Ali Gartabar Firouz, members of the Mojahedin Khalq Movement, an Iranian political opposition party, reportedly killed in Baghdad by unknown armed men allegedly acting under the orders of Iranian authorities.

Communications received

270. Regarding the case of the 30 money changers, the Government stated that the allegations were inaccurate. According to the Government the Directorate to Combat Economic Crime, while patrolling the districts of Harithiya, Samw'al and Kifah, arrested 103 persons engaged in foreign currency speculation. A commission of competent officials, formed to investigate those arrested, ordered the detention of 73 persons for a period of a year, the release of 10 persons after they had made a written statement undertaking to refrain from engaging in foreign speculation, the release of 17 other persons, and the referral of three persons to the court. The Government stated that none of the arrested persons had been executed.

271. By a note verbale dated 28 July 1995, the Government transmitted a copy of Revolution Command Council Decree No. 61 of 22 July 1995 which remits the remainder of the sentences of Iraqi prisoners and detainees, commutes death sentences to life imprisonment and pardons persons liable to the penalty of amputation of the hand or the auricle of the ear. The decree does not cover those convicted of the following offenses: drugs, espionage, murder associated with robbery, embezzlement or theft of State property, assaults on officials or public servants during or because of their discharge of their duties, bribery, rape, sodomy and incest. A copy of Decree No. 64, promulgated by the Revolution Command Council on 30 July 1995, granting a general amnesty to persons convicted for political reasons, was also forwarded. A detailed analysis of the decree can be found in the first periodic report on the situation of human rights in Iraq (E/CN.4/1996/12).

Follow-up

272. The Special Rapporteur sent a letter of reminder to the Government in respect of the cases for which a reply had not yet been received.

Observations

273. The Special Rapporteur thanks the Government of Iraq for its willingness to cooperate with his mandate. None the less, he is deeply concerned at allegations referring to an extension of the scope of the death penalty to an increasing number of crimes, including economic offences. He reiterates his dismay at repeated allegations of lack of respect for international safeguards in trials leading to the imposition of capital punishment. The Special Rapporteur wishes to emphasize that the death penalty is not an answer to the social and economic effects of the embargo imposed on Iraq and appeals to the Government to commute all death sentences.

## Israel

274. Although there has been a decrease in the number of allegations of extrajudicial, summary or arbitrary executions, information brought before the Special Rapporteur suggests that violations of the right to life by the Israeli Defence Forces have not ceased. (In this regard, the Special Rapporteur would like to note that information has also been received about killings committed in Israel by the Islamic Resistance Movement (Hamas)).

275. For more detailed information on the situation of human rights in Israel, the Special Rapporteur refers to the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/50/463) and that of the Special Rapporteur on the situation of human rights in the occupied Arab territories, including Palestine (E/CN.4/1996/18).

276. During the period under review, the Special Rapporteur transmitted one urgent appeal regarding conditions of detention in Khiam prison, allegedly in territory under Israeli command, and transmitted eight cases of alleged extrajudicial executions to the Government. The victims were mainly Palestinians and included two minors, shot dead by Israeli Defence Force soldiers.

Allegations transmitted

277. On 3 April 1995, a joint urgent appeal was sent by the Chairman of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture, after receiving information about the situation of prisoners held at the Al-Khyam prison, in the Marjouyum region of South Lebanon, territory reported to be controlled by the Israeli Defence Forces. Reference was made to the death in custody and the death shortly after his release of Selim Awada and Ali Al-Ghoul, who died in September and December 1994, respectively.

278. The following Palestinians were reportedly killed during 1995 by soldiers of the Israeli Defence Forces: Ziyad Khalil Nassar Al-Umarein, allegedly killed at a permanent military check-point at the entrance of Al-Duboya; Muhammad Khamis'Asi, 17 years old, Ashraf Suleiman Mafarja, 'Isa Sa'id 'Asi and 'Ali Isma'il'Abd Mafarja, reportedly shot dead in Ramallah; Ibrahim Khader Ibrahim Id'Ies, 16 years old, reportedly killed at a military check-point near the settlement of Tel Al-Rumeida.

279. In addition, the Special Rapporteur also transmitted the case of Abdulsamad Harizat, who reportedly died in Hadassah Hospital in Jerusalem as a result of head injuries sustained during interrogation by the Israeli General Security Services at the Maskubia prison in Jerusalem.

Government replies

280. By letter dated 30 May 1995, the Permanent Mission of Israel to the United Nations provided a reply to the joint urgent appeal, stating that the Khiam prison has always been and remains solely under the control of the South Lebanon Army (SLA), and that all inquiries should be addressed to them.

Follow-up

281. The Special Rapporteur addressed a letter of reminder to the Government of Israel in respect of those cases to which a reply had not yet been received (22 August 1995).

Observations

282. The Special Rapporteur expresses his concern about the continuous reporting of killings of children by the Israeli Defence Forces. He calls upon the authorities to investigate the allegations, to bring the perpetrators of the violations to justice and to take measures to prevent the recurrence of such violations.

283. With regard to the situation in Al-Khyam prison, the Special Rapporteur would like to reiterate that according to the information received, the Israeli forces are in control in that area. He also emphasizes that State responsibility goes beyond its actual territory, as far as its forces are concerned.

284. The Special Rapporteur hopes that further negotiations between the Israeli Government and the Palestinian authorities will continue, despite the senseless assassination of Prime Minister Yitzak Rabin. He hopes that the peace process will bring to an end violent attacks by extremists on both sides. In addition, he urges the authorities to address human rights issues in the framework of the peace process, and stressed the need to give special attention to the protection of the right to life and to the fight against impunity.

## Kenya

285. The Special Rapporteur received reports about an increased pattern of harassment and intimidation of human rights activists, opposition figures and journalists since the beginning of 1995, resulting in alleged arbitrary detention and attacks against some human rights organizations. Allegations were also received that a magistrate had refused to receive final oral submissions by a group of human rights defenders who were on trial, presumably for reasons relating to their political activities. Furthermore, serious allegations were received about the harsh condition of prisons in Kenya. Prisoners were reported to be suffering from severe overcrowding as well as lack of adequate food, clothing, blankets and basic sanitary requirements, allegedly resulting in deaths during custody. However, the Special Rapporteur did not receive enough substantiated information to be able to act upon individual cases in this regard.

### Allegations transmitted

286. The Special Rapporteur sent to the Government of Kenya the case of Rosemary Nyambura, who reportedly died on 10 May 1992 as a result of torture by up to seven police officers at Ruaraka police station near Nairobi, after she was allegedly arrested for not being able to show her identity card to the police. In the post-mortem report it had been allegedly stated that the cause of her death was internal injuries resulting from torture.

287. At the time the present report was finalized, no reply had been received from the Government.

## Kuwait

288. Concerns continue to be expressed about procedures followed by the State Security Court which, according to the information received, do not conform to international standards for a fair trial. Defendants are allegedly denied the full right to appeal in ordinary criminal cases, and defendants tried before the State Security Court allegedly have the right to a limited review of their cases by the Court of Cassation, while criminal cases may be reviewed before the Court of Appeal on issues of fact and law followed by a further review of possible legal errors by the Court of Cassation.

289. The information received by the Special Rapporteur in 1995 was, however, insufficiently detailed to enable him to send individual cases to the Government of Kuwait.

## Kyrgyzstan

290. The Special Rapporteur sent one urgent appeal to the Government of Kyrgyzstan in 1995, concerning the death sentence handed down on Vasily Skvortsov by the Bishkek City Court on 9 June 1994. It had been brought to the Special Rapporteur's attention that Vasily Skvortsov was suffering from a severe mental handicap for which he had been under medical supervision since 1983. In addition, it was alleged that he was sentenced to

death after legal proceedings which fell short of international standards, and that he had not been legally represented when his sentence was considered (24 January 1995).

Observations

291. The Special Rapporteur regrets the fact that at the time the present report was finalized, no reply had been received from the Government. He expresses concern about the reports that in Kyrgyzstan the death penalty may be applied to mentally retarded persons, and calls upon the Government to bring its national legislation into line with international standards protecting the rights of mentally ill and mentally retarded persons.

## Liberia

292. Contrary to previous years, the Special Rapporteur received distressing and alarming reports about violations of the right to life. Armed conflicts and clashes between different groups in Liberia, particularly between the armed forces of Liberia (AFL), the National Patriotic Front of Liberia (NPFL), the Independent National Patriotic Front of Liberia (INPFL), United Liberation Movement for Democracy in Liberia (ULIMO), Lofa Defence Force (LDF), and the Liberian Peace Council (LPC) have allegedly resulted in numerous cases of grave human rights violations. They included the deaths of civilians who were not actively participating in combat. Reports of indiscriminate killings, forced labour, torture, looting and ritual murders, including allegations of cannibalism, have been received. Reportedly, all factions involved in the war are committing human rights violations.

293. Since 1989, rivalries among Liberia's factions have reportedly resulted in the deaths of more than 150,000 persons, more than 1.5 million have been displaced and some 800,000 have fled to neighbouring countries.

294. The establishment in 1993 of a United Nations Observer Mission in Liberia (UNOMIL) and the deployment of the Economic Community of West African States Monitoring Observer Group (ECOMOG) were the initial steps towards finding a solution to the grave crisis in Liberia.

Allegations transmitted

295. The Special Rapporteur sent a letter to the Special Representative of the Secretary-General in UNOMIL, requesting the cooperation of UNOMIL in obtaining information about specific cases of alleged extrajudicial, summary or arbitrary executions and the situation with regard to the right to life in general. The Special Rapporteur explained that due to the current situation in Liberia it was impossible for him to follow the usual procedure for carrying out his mandate. He requested UNOMIL to inform him about its mandate regarding violations of human rights, in particular the right to life (27 May 1995).

296. The Special Rapporteur transmitted the following allegations to the Permanent Mission of Liberia to the United Nations Office at Geneva (18 April 1995). The allegations were related to violations of the right to life which occurred mainly between September and December 1994:

(a) Reportedly killed by NPFL soldiers: John Dahn, for refusing to sell a bag of rice; an unidentified person, working as a nurse for a humanitarian organization; John Hillary; Bakor, Sam Duo and two unidentified persons killed during a raid in Pehekan; 75 unidentified persons, killed in the district of South of Lac, Grand Bossa County;

(b) Reportedly killed by LPC soldiers: 25 unidentified persons killed while trying to escape from Kangbo's town; 300 unidentified persons who had gathered for a mass meeting at the market in Nimba; Josuaf Duweh, Moses, Jesse Cooper, William Kuwor, David Hinneh and 7 unidentified persons, murdered with cutlasses in Sabo Wofiken, Grand Gedeh County; Alex Weah, killed after refusing to have sexual intercourse with the soldiers; 45 unidentified civilians killed in Kpolokpalai in Kokoyah district;

(c) Reportedly killed by ULIMO soldiers: one unidentified person, killed in Shankpallai town; a large number of unidentified civilians and members of the hospital staff in Gbarnga, Cuttington University and Phebe hospital.

297. In addition, the Special Rapporteur transmitted allegations concerning a massacre, where 67 persons, a mother of an infant and 28 children under 10 were allegedly killed in Paynesville by members of the AFL-Krahn which is linked with the LPC and the Central Revolutionary Council. The case of 20 unidentified persons reportedly killed in a fight between LPC and NPFL soldiers in Gbago, Grand Gedeh County was also sent to the Government.

Observations

298. The Special Rapporteur welcomes the conclusion of an agreement calling for a cease-fire to begin on 26 August 1995 and for the establishment of a Council of State on 2 September 1995, after a meeting in Abuja, Nigeria, on 20 August 1995 of Liberian faction leaders. He expresses concern, however, at alarming reports about indiscriminate killings of civilians, including women and children, some of whom seem to have been targeted on the basis of their ethnic origin. He deplores the lack of an effective judicial system in Liberia, which results in a situation where perpetrators of human rights violations, and in particular the right to life, are not brought to justice. In early 1994, the Special Rapporteur expressed his interest in conducting a visit to Liberia and assisting in evaluating the possibilities for human rights monitoring. No reactions have been received to date. The Special Rapporteur calls upon all those involved to pay special attention to the issue of human rights in the framework of the peace process.

## Libyan Arab Jamahiriya

Allegations transmitted

299. The Special Rapporteur sent one urgent appeal to the Government of the Libyan Arab Jamahiriya, requesting the Government to respect the right to life and physical integrity of nine persons who were reportedly at risk of imminent execution for "spying", after being held incommunicado and tortured, and after some of them had reportedly been forced to confess on television. The names of the nine persons are as follows: Col. Miftah Qarrum

al-Wirfali, Major Ramadhan al-'Ayhuri, Major Khalil Salam al-Jidiq, Major Niftaf Bahr, Lt. Col. 'Abdallah al-Waa'ir, Lt. Col. Daw al-Salihin al-Jidiq, Lt. Col. Shitwi Miftah al Mabruk, Lt. Col. Mohammad al-Ghul and Sa'ad Misbah al-Zubayi. It was also brought to the Special Rapporteur's attention that during a meeting of the Revolutionary Committees in Bani Walid, eastern Libya, the population was allegedly forced to sign a petition calling for the execution of the nine persons mentioned, most of whom are from that region. According to the information received it was not known whether the nine had received a trial (22 September 1995).

Observations

300. The Special Rapporteur regrets that no reply has been received from the Government. He expresses his concern about the apparent lack of respect for fair trial standards in trials leading to the imposition of capital punishment as well as disregard of the safeguards which guarantee protection of the rights of those facing the death penalty.

## Lithuania

301. In May 1995, the Special Rapporteur received information that the issue of whether the death penalty will be included in the new Criminal Code in Lithuania was under debate in the Lithuanian Parliament. Concerns were expressed that in the current application of the death penalty prisoners' internationally guaranteed right to have their conviction and sentence reviewed by a higher jurisdiction is not always respected.

## Mali

Allegations transmitted

302. The Special Rapporteur transmitted to the Government the cases of the following persons reportedly killed by army officials ("Red Berets"): Baba Koutam, arrested in Timbuktu and kicked to death; Mojamed Ould Sidi Boubacar Cheik; 17 unarmed civilians reportedly killed near the Mauritanian border; 17 unidentified persons killed in Gossi; 8 persons of Tuareg and Belah ethnic origin killed in Gossi; Sidi Amar Ould Ely, Bagna Baba Boumama and 11 unidentified persons found dead outside the Azalai Hotel in Timbuktu.

303. In addition, the Special Rapporteur transmitted to the Government allegations according to which in August 1994, army personnel attacked nomad camps in Almoustrat, near Gao, which resulted in the death of 93 persons. The case of six Tuaregs reportedly burned to death in August 1994 was also sent to the Government. (The Special Rapporteur also received information about unarmed civilians killed by Tuareg armed gangs, who were said to be active in the northern part of Mali.)

Observations

304. The Special Rapporteur regrets the lack of a reply to the communications transmitted to the Government. He hopes that the peace agreement concluded between the Government and the armed opposition will be respected in the northern part of Mali and create a situation which will respect the lives of

the civilian population. The Special Rapporteur calls on the Government to carry out exhaustive and impartial investigations into these allegations with a view to identifying those responsible, bringing them to justice and compensating the victims.

## Mauritania

305. The Special Rapporteur transmitted to the Government of Mauritania the case of Amadou Pamarel Sow, 54, who was reportedly killed when members of the security forces opened fire on him during a routine identity check on 27 October 1994 in Foundu.

### Observations

306. The Special Rapporteur regrets the fact that at the time the present report was finalized, no reply had been received from the Government. He remains concerned about the reported total impunity, in law or de facto, of members of the security forces.

## Mauritius

307. The Special Rapporteur welcomes the fact that the Parliament of Mauritius decided in August 1995 to abolish the death penalty.

## Mexico

### Allegations transmitted

308. The Special Rapporteur sent nine urgent appeals on behalf of human rights activists as well as political and peasant activists and members of the Catholic Church in Chiapas who were reported to have received death threats:

(a) Political activists: María Kramsky Espinoza, threatened for her activities in support to Father Samuel Ruíz (21 February 1995); members of the Partido Revolucionario Democrático (PRD) and members of the Organización Campesina de la Sierra del Sur (OCSS), including José Ascencio Domínguez, Benigno Guzmán Martínez, Héctor Ponce Radilla, David Molina, upon receiving death threats in relation to their activities on behalf of the local indigenous and peasant populations. In the same communication, the Special Rapporteur referred to the killings of Ismael Mena Alvarez, Eugenio Aguirre Bahenam, Pablo Salas Romero and Cristino Bibiano Nava (31 July 1995). The following members of the PRD in Chiapas received death threats following the murder of PRD leaders Artemio Roblero Roblero and Higinio Sánchez Hernández: Miguel González Hernández, Juan Martínez López, Juan José Ulloa Pérez, Francisco Zavala Hidalgo, David Tovilla, Gilberto Gómez Maza, Raquel Ramírez Morales, Carlos Bertoni, Apolinar Sánchez Hernández (28 September 1995);

(b) Members of the Catholic Church: José Alberto Paniagua Mijangos, Father Javier Ruiz Velazco, Father Samuel Ruiz, Bishop of San Cristóbal de las Casas, and other members of the Catholic Church in Chiapas, threatened because

of their work as negotiators between the Ejército Zapatista de Liberación Nacional (EZLN) and the Mexican Government (31 March 1995); Bishop Arturo Lona Reyes, after receiving death threats in relation to his work in favour of indigenous rights (12 July 1995);

(c) Human rights activists: Father David Fernández, head of the Human Rights Centre Agustín Pro-Juárez, following his published criticism of the role of the security forces in a number of violent incidents in the States of Chiapas and Guerrero (23 August 1995); José Lavanderos Yáñez, member of the Human Rights Centre Agustín-Pro Juárez, after he received threats reportedly as a result of his work as a lawyer for a group of detainees accused of being members of the EZLN (11 October 1995); Consuelo Morales, Victor and Amelia Zabala, director and members of the Ciudadanos en Apoyo a los Derechos Humanos (CADHAC), after they had been threatened and intimidated (8 May 1995);

(d) Peasant activists: Benigno Guzmán Martínez, José Ascencio Domínguez, Héctor Ponce Radilla and David Molina, members of the Organización Campesina de la Sierra del Sur (OCSS), following the killing in Aguas Blancas by members of the police on 28 June 1995 of 17 peasants who were travelling to Atoyac de Alvarez to attend a demonstration. In this incident, the following persons were killed: Tomás Porfirio; Amado Sánchez; Fabián Gallardo; Francisco Rangel; Pasito Hernández; Daniel López Castañeda; Victorino Flores; Climaco Martínez; Paz Hernández González; Mario Pineda; Andrés Refugio; Antonio Abarca Santero; Gregorio Analco Tabares; Florente Rafael Ventura; Simplicio Martínez Reza, and two unidentified persons (13 July 1995).

309. In addition, the Special Rapporteur transmitted the cases of the following peasant activists who were reportedly killed by the security forces: Manuel Díaz Vásquez and Israel Pérez Gonzalez, both members of the Organización Campesina Emiliano Zapata (OCEZ); Rafael Cruz Ocaña, Manuel Gutiérrez López and Marín Cruz Alvarez, peasants and members of the organization Movimiento Tierra y Libertad.

310. Moreover, he transmitted the cases of: Neftali Ruiz Ramirez, transvestite and gay activist, reportedly killed by an individual working for the Policía Judicial del Estado; Abraham Antonio Polo Uscanga, magistrate of the Mexican Supreme Court, reportedly killed in June 1995 after he had resigned from his functions because of irregularities in the judicial system. The Special Rapporteur on the independence of judges and lawyers had sent an urgent appeal on his behalf on 6 July 1995.

Communications received

311. On 19 December 1995, the Government provided a reply to the cases of Rolando and Atanacio Hernández Hernández (E/CN.4/1995/61, para. 218 (b)), stating that the National Human Rights Commission of Veracruz had concluded that the allegations were inaccurate and no one in the community had seen the corpses. Nevertheless, the source reiterated that the two bodies had been found on 12 September 1994, with signs of torture, floating on the Chillón River.

312. Regarding the threats and attacks on members of the Bishopric of San Cristóbal de las Casas, the Government stated that the National Human Rights Commission (NHRC) recommended to the authorities of Chiapas, inter alia, to initiate investigations into the events and to adopt all necessary measures to protect the physical integrity of Bishop Samuel Ruíz and other members of the Catholic Church. Regarding the threats received by José Paniagua Mijangos, the Government informed the Special Rapporteur that, despite the fact that he had been approached by the NHRC to clarify the incident, José Paniagua Mijangos did not provide further information and the case was dropped due to lack of evidence (7 April, 27 June and 24 November 1995).

313. In the case of death threats against María Kramsky Espinoza and her family, the Government informed the Special Rapporteur that the NHRC initiated inquiries, despite the fact that no complaint had been received concerning the case (23 June 1995).

314. In reply to the allegations concerning the killing of 17 peasants in Aguas Blancas on 28 June 1995, the NHRC concluded that it was not proved that the police had been attacked; therefore, they could not have acted in legitimate self-defence. It was determined that the shots were all fired from outside the lorry. Criminal and/or administrative responsibility for this incident had to be attributed to certain public officials. A set of 15 recommendations was made by the NHRC to the Governor of Guerrero State, including: the nomination of a new Fiscal Especial (Public Ministry) to continue the investigations, removal of the Procurador General de Justicia del Estado (Attorney-General) and other public officials for their conduct in connection with the incident, indemnity of the families of the victims and restructuring of the police forces. The Government also informed the Special Rapporteur that investigations to determine the whereabouts of Gilberto Romero Vázquez were under way (23 August and 22 September 1995).

315. Concerning the case of Bishop Arturo Lona Reyes, the Government stated that, those who fired against the Bishop had been detained and were facing criminal charges. The NHRC continued to investigate the case (4 September and 24 November 1995).

316. Regarding the killings of Rafael Cruz Ocaña, Manuel Gutiérrez López and Marín Cruz Alvarez, the Government stated that an investigation was under way. The four persons who were injured in the same incident were not able to identify those responsible for the shooting (15 September 1995 and 24 November 1995).

317. The Government stated with regard to the case of Hector Ponce Radilla and David Molina that no evidence was found that their lives were in danger and that they were in good health. Furthermore, the Special Rapporteur was informed that three persons had been identified as the presumed perpetrators of the killings of Israel Mena Alvarez and Eugenio Aguirre Bahena. Concerning the death of Pablo Salas Romero, investigations carried out by the Policía Judicial del Estado de Guerrero concluded that his killing was due to family disputes over land, as was the case in respect of Cristino Bibiano Nava. The

Government pointed out that he was not a candidate of the PRD for the municipal elections, as stated in the urgent appeal of 31 July 1995 (22 September 1995).

318. By letters dated 23 June and 15 August 1995, the Government of Mexico transmitted a series of publications of the work accomplished by the NHRC which included an analysis of the events which occurred in Chiapas in February 1995.

Follow-up

319. On 22 August 1995, a follow-up letter was sent to the Government of Mexico. The Special Rapporteur thanked the authorities for the information provided in a number of cases transmitted in 1995 and previous years and requested further information in some of the cases. In this connection, the Special Rapporteur asked for more details of the cases of Rolando and Atanacio Hernández Hernández, and of the case of threats against Father Javier Ruíz Velasco. The Special Rapporteur forwarded a reminder to the Government about the cases transmitted since 25 November 1994 for which no answer from the Government had yet been received.

320. In the same letter, the Special Rapporteur expressed concern about the allegations of violations of the right to life which continue to be received, in particular in connection with military operations by the Mexican security forces against the EZLN. The Special Rapporteur therefore requested an invitation to undertake a visit to Mexico in order to gather first-hand information, so as to enable him to evaluate the situation with regard to the right to life in a better way.

Observations

321. The Special Rapporteur thanks the Mexican Government for the replies provided and the willingness shown to cooperate with the mandate. As no reply has yet been received regarding a request to visit the country, he reiterates his interest in conducting such a visit. The Special Rapporteur encourages the Government to continue a dialogue with the Zapatista National Liberation Army, in search of peaceful settlement.

322. He notes with satisfaction the work which has been initiated by the NHRC but regrets the obstacles in the implementation of recommendations. He remains concerned about the excessive use of force by law-enforcement officials which has led to tragic events, such as that at Aguas Blancas, where 17 persons were killed. In this connection, he reminds the Government of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the need that these are implemented. He regrets an increase in the number of allegations of extrajudicial, summary or arbitrary executions reported to him in 1995 and that some perpetrators of human rights violations have not yet been brought to justice and continue to enjoy impunity.

## Mongolia

323. The Special Rapporteur in 1995 received an alarming report concerning prisoners in Mongolia who were allegedly dying of starvation during detention. This was reportedly due to the authorities' lack of money, but it was also alleged that food was withheld to force people to make confessions during their pre-trial detention. For an analysis of the situation, reference is made to the report of the Special Rapporteur on the question of torture (E/CN.4/1996/35).

## Morocco

324. The Special Rapporteur was informed that 3 death sentences were reportedly imposed in Morocco on 28 January 1995, which were the first ones to be pronounced since the commutation of 195 death sentences in March 1994.

### Allegations transmitted

325. The Special Rapporteur transmitted to the Government the case of Kaidi Lahcen, who reportedly committed suicide on 28 January 1995, in the prison of Kenitra, allegedly after sustaining ill-treatment. According to the information received, he had been refused medicines.

326. By the time the present report was finalized, no reply had been received from the Government.

## Myanmar

327. The Special Rapporteur received information about violations of the right to life by the State Law and Order Restoration Council (SLORC), Myanmar's ruling military authorities. Information regarding attacks perpetrated by the Democratic Kayin Buddhist Organization (DKBO), an armed group reportedly supported by SLORC, has also been received. Such attacks reportedly constitute a pattern of intimidation against unarmed civilians, in particular of Kayin (Karen) origin, seeking refuge in Thailand. For an in-depth analysis of the human rights situation in Myanmar, the Special Rapporteur refers to the report presented to the Commission on Human Rights by the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/1996/65).

### Allegations transmitted

328. The Special Rapporteur transmitted to the Government of Myanmar four urgent appeals on behalf of the following persons:

(a) Maung Kyaw Pu and Saw Tah Kee, of Kayin ethnic origin, reportedly arrested by SLORC troops while they were crossing the river from Thailand to the Myanmar side (17 January 1995);

(b) Three urgent appeals were sent concerning Myanmar refugees living in Thailand. The first appeal was sent after armed men in plain clothes reportedly fired grenades and AK-47 rifles at 20 unarmed Myanmar refugees, who were travelling in a truck. This incident was reported to have caused the death of the driver, of Thai nationality, and two refugees, Me Paw and Peh

(7 March 1995). A second appeal was sent after two men, San Tun and "Uncle Jolly", both said to be Kayin leaders, were reportedly abducted by some 30 members of the DKBO who had crossed the Thai border and entered the camp where the persons mentioned were living (10 March 1995). A third appeal was sent after information was received about the reported abduction of nine people of Kayin ethnic origin, including Saw Gay Phlo, members of his family and Maung Li, by members of the DKBO (16 March 1995).

329. In addition, the Special Rapporteur transmitted to the Government cases of reported killings by SLORC troops of the following persons, including two minors: Sai Seng Harn, shot dead in southern Shan State; Pa Kloh and Paw Ghee, shot dead in Khee village; Kyaw Soe and Saw Ka Nu, shot dead in Kaw Kya village; Por Sala and Por Ni-Ong, shot dead in Wornmai Koong-Tee village; Othan Aung, Phoe Htaw and Saw Win, shot dead in Pa-Paun Area; Saw Ko Pa Moo, shot dead in Thu Day village; two unidentified persons, shot dead near Wa Daw village, Tha Hton town; two unidentified boys, aged 7 and 14, killed as a result of air raids over their village.

330. The following persons were reportedly tortured to death: Laydoo Son, Mohammed Siddique, Mohammed Tayub, Abdul Jabbar, Muslims of Arakan State; O Sai Aung Mong, in Worn Pung Laing village; Sai Saring, Lung Khin, Arn Pya, in Thung Pung parish; Saw Ther Toe, in Paw Autaw village; Sai Su, headman of the Torng Teik parish, in northern Shan State, in Norg Sien village; Sai Be and Maung Pa Locke, in Lwe Paw village; Saw Ghay, Paw Muh Der village.

Communications received

331. With regard to the urgent appeal concerning Maung Kyaw Pu and Saw Tah, the Government stated that they had not been detained by Government troops (8 February 1995).

332. In addition, a reply was provided regarding alleged armed attacks by armed men belonging to the DKBO against civilians from Myanmar who were residing on Thai territory. The Government provided the Special Rapporteur with a detailed account of the latest developments concerning the peace offers that were made to armed groups within its territory. According to the reply, a number of armed groups subsequently had entered into cease-fire agreements with the Government but others responded negatively to the offer. Overall, the armed forces had unilaterally suspended their military operations in Myanmar (13 March 1995).

333. On 20 March 1995, the Government provided a reply to the Special Rapporteur's urgent appeal of 16 March 1995 concerning the alleged abduction of nine persons of Kayin ethnic origin as well as the alleged extrajudicial execution of two Kayin refugees by members of the DKBO.

Observations

334. The Special Rapporteur wishes to thank the Government of Myanmar for the replies provided. Persistent reports of violations of the right to life by members of the DKBO on Kayin refugee camps in Thailand are most worrisome. The Special Rapporteur urges the authorities to make every effort to ensure

that members of the DKBO forces who are responsible for human rights violations, particularly those involving the right to life, are brought to justice.

335. The Special Rapporteur also calls on the authorities to take the necessary steps to protect the lives and safety of Myanmar refugees living in Thailand, near the border with Myanmar.

## Nepal

336. The Government provided the Special Rapporteur with a reply to a case of the death in custody of journalist Kumar Burathoki (E/CN.4/1995/61, para. 232). The Special Rapporteur was informed that a police investigation was still under way. The Government also stated that since under national law no provisions existed for compensation, no compensation was provided to the family or the victim (12 April 1995).

### Observations

337. The Special Rapporteur wishes to thank the Government of Nepal for the reply it has provided, and hopes to receive additional information in due course. He calls upon the Government to bring its national legislation into line with international standards, so as to ensure the right to compensation and reparation for victims of human rights violations.

## Nigeria

338 The Special Rapporteur received numerous allegations about human rights violations in Nigeria, particularly about extrajudicial, summary or arbitrary executions that continued to occur in 1995. The majority of the reports were related to death sentences imposed after trials by military courts, allegedly falling short of international standards.

339. Information was brought to his attention concerning secret trials, allegedly held before the Special Military Court in Lagos, of a group of more than 30 military officials and civilians accused of being involved in an attempted coup d'état which was discovered in March 1995. The accused persons were reportedly detained incommunicado. It was alleged that the trials were grossly unfair and failed to provide for the accused the right to appeal to a higher judicial body. The sources furthermore expressed deep concern about the lack of independence of the Special Military Court, which was reported to be headed by a member of the military Government (the Provisional Ruling Council) and composed of six other armed forces officers appointed by the Government. According to the information received, the military tribunal could try any person, whether military or civilian, on charges of treason or other offences relating to an attempt to overthrow the Government by force, and could hand down any penalty under criminal or military law without being bound to the procedures of civilian or military courts. It was therefore feared that the persons tried would be facing imminent execution after their trials. For a more detailed analysis, reference is made to the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1996/37).

340. The Special Rapporteur received many disturbing allegations with regard to the trials before the Civil Disturbances Special Tribunal of nine Ogoni leaders, which had commenced in 1994 and which resulted in death sentences. The Civil Disturbances Tribunal, set up pursuant to the Special Tribunal Edict of 1994 (Offences relating to Civil Disturbances), was reportedly empowered to hand down death sentences, not only for offences related to the unrest that occurred in Ogoni-land in 1994, but also for crimes previously not punishable by death such as attempted murder. Concerns were expressed regarding the alleged lack of independence and impartiality of this Tribunal. The Court reportedly falls outside the normal judicial system, and was established by the Government especially to try these cases. It was also alleged that immediately after the disturbances in Ogoni-land took place, resulting in the deaths of four moderate Ogoni leaders, the Government pronounced the nine Ogoni leaders responsible for the murders. The Special Rapporteur was furthermore informed about the lack of facilities for the defence to prepare the cases, as well as bias in favour of the prosecution, which resulted in the withdrawal of the lawyers of one of the defendants. It was brought to the attention of the Special Rapporteur that key prosecution witnesses had stated in sworn affidavits that they had been bribed to testify against the accused persons. The sentences handed down by the Civil Disturbances Special Tribunal furthermore could not be reviewed by a higher, independent jurisdiction. After the imposition of the death sentences they were reportedly confirmed by the Provisional Ruling Council and carried out very soon after.

Allegations transmitted

341. The Special Rapporteur sent the following four urgent appeals to the Government of Nigeria, two of them in relation to the trials of the persons allegedly involved in a coup d'état against the Government and two jointly with the Special Rapporteur on the independence of judges and lawyers with regard to the trials of the nine Ogoni leaders, asking the Government to clarify the allegations concerning the trials, as well as to prevent the death sentences from being carried out.

342. Following two urgent appeals sent by the Working Group on Arbitrary Detention on 5 April and 16 May 1995 respectively, the Special Rapporteur sent two urgent appeals to the Government, both concerning secret trials by the Special Military Court in Lagos. In the first urgent appeal, the Special Rapporteur requested the Government to ensure protection of the rights of the persons accused and to provide him with information about the allegations. The communication was sent for the following 27 persons who were amongst others reportedly being tried by the Special Military Court: Lt. Col. M.A. Ajayi (rtd.), Major Akinloye Akinyemi, Lt. Col. V.O. Bangbose, Lt. Col. Happy Kefas Bulus, Col. R.A. Emokpae, 2/Lt. R. Emonvhe, Col. R.S. Bello-Fadile, Col. L.A. Gwadabe, Capt. M.A. Ibrahim, Lt. Col. M.A. Igwe, Lt. Col. Izuorgu, Lt. Col. O.E. Nyong, Col. Emmanuel Ndubueze, Lt. Col. R.D. Obiki, Capt. A.A. Ogunsuyi, Col. O. Oloruntoba, Lt. Col. S.E. Oyewole, Lt. Col. I. Shuaibu, Capt. U.S.A. Suleiman, S. Sgt. P. Usikpeko, Titi Ajanaku, Julius Badejo, Felix Ndamaigida, Albaji Sanusi Mato, Peter Ijaola, Shehu Sanni, Mathew Popoola (22 June 1995).

343. In his second urgent appeal, he asked the Government to ensure the protection of the right to life and physical integrity of the following persons, who might be facing imminent execution after an allegedly unfair trial and without having had the right to appeal to a higher judicial body: Gen. Olesugun Obasanjo, Mrs. Christine Anyanwu, Ben Charles Obi, Quinnet Ajogo and Major-General Shehu Musa Yar'Adua, and eight other persons who had also been mentioned in the previous urgent appeal. The Special Rapporteur furthermore welcomed the intended visit to Nigeria of the Chairman of the Working Group on Arbitrary Detention (19 July 1995).

344. The third urgent appeal of the Special Rapporteur was sent jointly with the Special Rapporteur on the independence of judges and lawyers and was related to the death sentences handed down after an alleged unfair trial and without the right to appeal on nine members of the Ogoni tribe. The nine persons accused were Ken Saro-Wiwa, writer, environmentalist and President of the Movement for the Survival of the Ogoni People (MOSOP), Dr. Barinem Kiobel, Saturday Dobee, Paul Levura, Nordu Eawo, Feliz Nuate, Daniel Gbokoo, John Kpuinen and Baribor Bera, who were reportedly sentenced to death by hanging. The trials were held before the Civil Disturbances Special Tribunal in Port Harcourt, Rivers State, which was established by the Government allegedly especially to try these cases. The Government was reported to have appointed the members of the Tribunal, among whom there was one serving armed forces officer. The persons accused had reportedly been detained incommunicado for eight months, whilst the President of MOSOP, Ken Saro-Wiwa, had allegedly been tortured during the initial stages of his detention. In the urgent appeal reference was also made to the fate of 17 other members of the Ogoni tribe who, after eight months' incommunicado detention, were reportedly detained on "holding charges" as of June 1995. One of them, Clement Tusima, allegedly died in August 1995 whilst in prison, due to lack of medical treatment and neglect, and the harsh prison conditions (2 November 1995). The contents of the urgent appeal were publicized in a press release.

345. Since the death sentences were reportedly unanimously confirmed by the Provisional Ruling Council on 8 November 1995 and the nine convicted persons were facing imminent execution, the two Special Rapporteurs decided to send a second joint urgent appeal strongly urging the Government to prevent the sentences from being carried out, and requesting the Government to provide them urgently with information concerning the trials (9 November 1995). A second press release, in which they expressed their deep concern about the trials and the confirmation of the death sentences, was issued.

346. In this context, information brought to the attention of the Special Rapporteur indicates that at least 16 supporters of MOSOP, who have been detained since mid-1994, and 3 others, who were detained in October 1995, have been charged with murder in connection with the killings of 4 Ogoni leaders in May 1994. In the wake of the execution of Ken Saro-Wiwa and eight others, in respect of the same killings, fears have once again been expressed for their safety and physical integrity, as they are allegedly being held in harsh and insanitary conditions, without access to medical care.

347. In 1995, the Special Rapporteur also transmitted to the Government of Nigeria 14 cases containing allegations of extrajudicial, summary or arbitrary executions of over 200 persons. The majority of the allegations was related

to cases of killings by security forces. A considerable number of cases were related to the abuse of power in response to peaceful pro-democracy demonstrations:

(a) Alleged killings by members of the security forces: Godwin Ehiagwina, student, allegedly shot dead on 21 August 1994; five unidentified students, reportedly killed during a demonstration in Ekpoma on 30 June 1995, in Edo State; Rasaki Sani, Ajibi Sani, Moshood Kelani, Damola Sadipe, Idowu Torhowei and at least 150 unidentified persons, who were reportedly killed in July 1993 during pro-democracy demonstrations by law-enforcement officials comprising police, soldiers and security forces;

(b) Reported killings by the police: 2 unidentified demonstrators who were shot in Lagos in July 1994; one unidentified person reportedly beaten to death in Lagos in 1993; an unknown number of students who reportedly died during a demonstration in 1992 in Lagos, as a result of excessive use of force by anti-riot policemen; Princess Olaide Azeezat, a 16-year-old girl, reportedly shot dead in June 1992; Olaleye Ajagun, who was reportedly beaten to death in Inagege, Lagos, in 1994; Sunny Aliogor and Charles Ajabor, suspected of being armed robbers, who were reportedly beaten to death; 20 unidentified demonstrators, reportedly killed in July 1994 in Lagos; Sunday Emmanuel, student, and Lateef Ayinde, allegedly shot during a demonstration in Lagos in July 1994;

(c) Death penalty allegedly imposed after an unfair trial: Gabriel Ali, Uche Gabriel, Samuel Ani, Edwin Agbo, Roman Peters, Sunday Eze, Simeon Agbo and 31 unidentified persons, reportedly executed in August 1994 after allegedly unfair trials before robbery and firearms tribunals; Elizabeth Oleru and 3 unidentified persons, reportedly executed after an unfair trial before a robbery and firearms court in May 1994;

(d) Reported death in custody: Michael Okere Mute Esiri, lawyer, reportedly died under torture in police custody in Lagos in 1993.

348. On 22 November 1995, the Special Rapporteur addressed a letter to the Chargé d'affaires of the Permanent Mission of Nigeria to the United Nations, in which he referred to the communication of 21 November 1995, signed by the Special Rapporteur on the independence of judges and lawyers, in which he requested the Government to extend to him an invitation to visit the country. The Special Rapporteur informed the Government that, in view of the dialogue started in relation to the human rights situation and in particular to the protection of the right to life in Nigeria, he would wish to join the Special Rapporteur on the independence of judges and lawyers on his visit. He therefore requested the Government to extend to the two Special Rapporteurs a joint invitation to visit that country, at a mutually convenient date.

Communications received

349. The Government acknowledged receipt of the cases sent by the Special Rapporteur on 12 June 1995 (19 June 1995) and the Special Rapporteur's urgent appeals of 22 June 1995 and 19 July 1995 (12 July 1995 and 31 August 1995).

The Government furthermore acknowledged receipt of the joint urgent appeal concerning the reported death sentences handed down on Ken Saro-Wiwa and eight other Ogoni leaders (2 November 1995).

350. The Government of Nigeria provided the Centre for Human Rights with a reply to the Working Group on Arbitrary Detention with the request to make the information available also to the Special Rapporteur on extrajudicial, summary or arbitrary executions. The communication contained a brief summary of the detention of Chief A.M.A. Akinloye, Chief M.K.O. Abiola, Mr. Ken Saro-Wiwa and Mr. Ledun Mittee. It was stated that information on the issue of the persons allegedly involved in a coup and the disturbances in Ogoni-land would be transmitted as soon as a reply was received from the relevant authorities (31 August 1995).

351. The Government of Nigeria provided the Centre for Human Rights with a document entitled "The conviction of Ken Saro-Wiwa", which was made available to the Special Rapporteur. The Government informed the Special Rapporteur that during the trial Ken Saro-Wiwa and the others were allowed access to the counsels of their choice, who withdrew from the defence for inexplicable reasons, leading to a delay in the proceedings. Government lawyers were then appointed. The Government stated that the trial was not carried out before a special military court, nor by a court martial, but by a special tribunal recognized in Nigerian law. The Government pointed out that special tribunals are recognized under the Nigerian judicial system and function like normal courts, their principal purpose being to speed up the dispensing of justice (14 November 1995).

352. The Government of Nigeria provided the Special Rapporteur with copies of the proceedings and final judgement of the Ogoni Disturbances (Special) Tribunal, held at Port Harcourt, Rivers State, on Tuesday, 31 October 1995 (22 November 1995).

Follow-up

353. The Special Rapporteur sent a letter to follow up on a number of cases which had been transmitted to the Government in 1994, and to which the Government had provided a reply. He informed the Government that he had consulted the initial source concerning the developments in Ogoni land, which were being investigated by the Federal Intelligence and Investigations Bureau (FIIB) of the Nigerian Police Force. The source alleged that the FIIB was a combined squad of Nigerian army, navy and air force personnel and itself responsible for human rights violations including violations of the right to life. As the versions given by the source and the Government differed substantially, the Special Rapporteur requested the Government to furnish further information regarding the allegations transmitted by the source. The Special Rapporteur furthermore reminded the Government of the urgent appeals sent concerning in particular the trial of those who had participated in plotting against the Government, and he expressed particular concern about the fact that no reply had been received (22 August 1995).

Observations

354. The Special Rapporteur thanks the Government for the provisional information provided in response to his appeals. He expresses the hope that the Government will provide him with additional information and full replies to the cases and appeals in due course. As in previous reports, the Special Rapporteur expresses his deep concern about the trials of civilians by special or military courts, which are reportedly subject to government interference. The Special Rapporteur is deeply disturbed by the persisting allegations and reports about the gross unfairness of the trials in the above-mentioned cases, such as that of Ken Saro-Wiwa, which led to his execution together with eight others, and deplores the fact that the right to appeal of persons receiving the death sentence after such trials is completely lacking. The Special Rapporteur once more calls upon the authorities of Nigeria to ensure that proceedings before the special and military tribunals conform to standards for fair trial procedures as contained in pertinent international instruments.

355. Furthermore, the continuing violence by the police against demonstrators and detained persons gives rise to deep concern. Numerous reports of the use of excessive force in reaction to demonstrations are of grave concern to the Special Rapporteur. He urges the authorities to take the necessary steps to ensure that security forces abide fully by the norms and regulations governing the use of force by law enforcement officials, in operations aimed at restoring peace and order. Those employing excessive use of force should be brought to justice, in conformity with international law, and the victims should be compensated.

356. Moreover, with regard to the allegations relating to deaths in custody, the Special Rapporteur calls on the Government to take measures to prevent such incidents and urges the authorities to investigate the allegations.

357. In view of the seriousness of the human rights situation and in particular the continuing violations of the right to life as reported, the Special Rapporteur has informed the Government of Nigeria of his wish to join the Special Rapporteur on the independence of judges and lawyers on a visit to Nigeria.

Pakistan

358. In 1995, the Special Rapporteur received allegations of continuing human rights violations in Pakistan, in particular violations of the right to life. The Special Rapporteur received reports relating to the trial of Selamat Masih, a minor, and his uncle Rehmat Masih, both Christians, who were reportedly condemned to death for blasphemy and for whom urgent appeals had also been sent in 1994 (E/CN.4/1994/7, para. 472).

359. Throughout 1994 and 1995, the Special Rapporteur received an alarming number of reports about numerous human rights violations, and in particular the right to life, of Mohajirs, an Urdu-speaking ethnic minority originating from India, workers and sympathizers of the Mohajir Qoumi Mahaz (Mohajir National Movement, MQM), a political opposition party active in the province of Sindh. According to these reports, since 1994, hundreds of MQM members have reportedly been killed during attacks and cordon-and-search operations by

members of the security forces, mainly in the area of Karachi. The Special Rapporteur received allegations that a rival faction named Haqiqi, set up by the Pakistani army, is supplied with arms and training, in order to undermine MQM. Members of the Haqiqi group are alleged to have acted against MQM with the support and protection of the Pakistani Intelligence Service. Moreover, the Special Rapporteur received reports about the involvement of the following agencies in violent activities against the Mohajirs: the Intelligence Bureau, the Internal Services Intelligence and the Rangers, a group of paramilitary forces which are reportedly acting under the supervision of the Pakistani army.

Allegations transmitted

360. The Special Rapporteur transmitted in 1995 two urgent appeals to the Government of Pakistan for the following persons: Salamat Masih, 14 years of age, and his uncle Rehmat Masih, who were reportedly sentenced to death for blasphemy on 9 February 1995 in Lahore. In the urgent appeal, allegations were transmitted in the case of John Joseph, a key witness to the killing in 1994 of Manzoor Masih, who received death threats from Islamic groups. The Special Rapporteur requested the Government to refrain from carrying out the death sentences and referred to the international standards which prohibit the imposition of death sentences on minors. The Special Rapporteur also requested details about the process and results of investigations into the killing of Manzoor Masih (10 February 1995).

361. A second urgent appeal was sent on behalf of the persons mentioned above, their lawyers, friends and family, following death threats received from members of Islamic groups (28 February 1995).

362. A massive number of allegations were received by the Special Rapporteur, particularly from those related to members of MQM.

363. The following 43 cases, concerning the violation of the right to life of at least 98 persons, were sent to the Government in 1995:

(a) Alleged killings of MQM workers by security forces or law enforcement officials: Zahid Ali (Asif Ali), tortured to death following arrest; Mohammad Amin and Habib Siddiqi; Shanawaz Maheed, a minor, and an unidentified person, reportedly shot dead during a raid against an MQM office;

(b) Alleged killings of MQM workers by police: Asad Khan (Abdul Qadir Khan), Javed Mukhtar (Abrar Hussain) and Mohammad Arif (Mohammad Iqbal); Hafiz Mohammad Zulfiquar (Haji Qamar Din) and Mohammad Hanif; Mohammad Nasir (Mohammad Sharif), Saeed Ahmed (Abdul Majeed), Mohammad Usman (Mohammad Islam), Mohammad Ismail (Summo) and Mohammad Tahir (Abdul Ghaffar); Nasina Begum and Shanaz Begum (both female), reportedly shot dead; Tanvir Ahsan; Javed Maheed; Syed Farhan Ali; Kamran Qureshi (aged 16), who reportedly died under torture on 18 May 1995; Abdul Waheed, reportedly tortured and killed in a police station in Nazimabad; Mohammad Ali;

(c) Alleged killings of MQM workers by members of Haqiqi, often after being kidnapped and tortured: Mohammad Anwar Iqbal (Shaikh Iqbal) and his

nephew Syed Naseem, whose dead bodies were reportedly found in the Malir River; Rafiuddin (Faqiruddin); Mohammad Jamil Qureshi (Aleemuddin Qureshi) and Ashraf (Abdul Habib); Rizwan Hussain Shikri; Rasheed Ahmed (Ahmed Hasan); Usman Ghani (Mohammad Umer), Mohammad Ali (Ahmed Ali) and Nadeem Ahmed Khan (Khaleel Ahmed Khan); Sigher Ahmed (Ehtishamuddin), Afaq Ahmed (Mushtaque Ahmed) and Mohammad Khurshid (Khurram), whose dead bodies were reported to have been found in October 1994 in an open drainage channel; Akhlaq Hussain (Farhat Hussain); Mehmood Ahmed; Tashfeen Ahmed (Izhar Ahmed), student; Habib Ghori (Aziz Ghori); Abdul Rehman, 85 years old, his son Liaquat and two daughters Fauzia and Ghazala; Nasir Khan, reportedly found dead near the W-11 bus-stop in New Karachi following kidnapping; Shaukat Khatri; Shaik Abdul Aziz; Israr Ahmed. The police were reported to have refused to register a number of the cases mentioned;

(d) Other alleged killings of MQM workers: Mohammad Farhan (Ishaq Khan), Faisal Jameel (Mohammad Jameel) and Mohammad Mustafa, reportedly killed by law enforcement personnel and members of Haqiqi; Muhammed Younus, reportedly killed after alleged physical abuse perpetrated by members of the paramilitary Rangers and the police; Saleem Jaffery and Nadeem Ahmed, reportedly tortured and killed by members of the paramilitary Rangers; Mohammed Salahuddin, director of the Urdu weekly Takbeer, in which the Government was allegedly criticized; Mohammad Tasneem, reportedly killed by members of the paramilitary Rangers, Haqiqi and the police; Soman, reportedly shot dead by paramilitary Rangers; 17 unidentified people and another 15 unidentified people, including 3 children, reportedly killed on 5 July and 6 July 1995 respectively by paramilitary Rangers in Karachi;

(e) Alleged deaths in custody under torture: Mohammad Murtaza (Abdul Ghafoor), in charge of the Medical Aid Committee of MQM, in Karachi Central Jail; Abdul Waheed, whilst in detention in the Saddar police centre, Karachi; Aslam Sabzwari.

364. The Special Rapporteur also forwarded to the Government allegations concerning the killing of Masih Iqbal, a 12-year-old boy who had been sold by his parents to work in servitude for the carpet industry under abusive circumstances, which he had denounced at international forums. He was reportedly killed, after several threats, on 16 April 1995. Representatives of the carpet industry were reported to have denied responsibility for the killing and had reportedly requested an impartial investigation.

Communications received

365. The Government of Pakistan, on 11 February 1995, provided replies to the following cases which had been sent in 1994 (E/CN.4/1995/61, paras. 243-245):

(a) In reply to the urgent appeal sent to the Government on 13 March 1994, the Government stated that in the case of the killing of Rana Riaz Ahmed Khan, two of the presumed murderers were arrested and legal action was being taken. In the case of the death of Ahmad Nasrullah, the case was reported to be under investigation;

(b) In reply to the following allegations transmitted on 3 June 1994, the Government stated that the three persons responsible for the death of

Manzoor Masih were facing trial; the death of Ms. Babal Khatoum Shirazi, allegedly caused by law enforcement officials during a raid, was under investigation; Niaz Hussain Pathan had died during an encounter which was being investigated; investigations into the death of Mr. Mijub Aijaz Jatoi had led to the conclusion that he had committed suicide while in custody; Qamruddin Indhar, Khadim Hussain Indhar and Sabho Indhar had been killed during an exchange of fire and the inquiry had concluded that no excesses were committed by the police or other law enforcement officials. The Special Rapporteur was also informed that Gullo Machhi had committed suicide during his detention. Concerning the case of Noor Muhammad Qureshi, which was still under investigation, the Government stated that the police officers accused of torturing him to death were granted pre-arrest bail by the Session Court in Hyderabad. Concerning the death of Nazir Masih during detention in a police station, the Government stated that a magisterial inquiry would be undertaken to assess the veracity of two medical reports which differed as to the cause of death.

366. On 11 February 1995, the Government, in a note verbale, provided a preliminary reply to the urgent appeal concerning the cases of Salamat Masih and Rehmat Masih. The Special Rapporteur was informed that the case was still sub judice and that the death sentence had never yet been carried out in Pakistan for blasphemy. In a second note verbale, dated 13 February 1995, the Government provided the Special Rapporteur with additional information concerning the trial of Salamat Masih and Rehmat Masih. The Government reminded the Special Rapporteur of the fact that the defendants still had the right to appeal twice more, once to the High Court and secondly to the Supreme Court. Concerning the case of Manzoor Masih, the Government confirmed again that the three persons accused of his killing were facing trial. A third note verbale, dated 8 June 1995, addressed to the Committee on the Rights of the Child, a copy of which transmitted to the Special Rapporteur, referred to the cases of Salamat Masih and Rehmat Masih. According to the judgement of the High Court in the blasphemy case, it would appear that the two persons had been acquitted of the charge.

Follow-up

367. On 22 August 1995, the Special Rapporteur sent a follow-up letter in response to two government replies that were received on 11 February 1995 and 8 June 1995. Regarding the case of Manzoor Masih, who had been shot dead in April 1994 outside the High Court, the Rapporteur requested additional information about the progress of the trial of the alleged perpetrators and whether the absence of one of the eyewitnesses, namely Rehmat Masih, who had fled to Germany, would not undermine the case. In the cases of Rana Riaz Ahmed Khan, Muhammad Ahmad Nasrullah, Ms. Babal Khattoon Shirazi and Boor Muhammad Qureshi, the Special Rapporteur sought information regarding the status of the investigations and the judicial proceedings. In the cases of Mujib Aijaz Jatoi and Gulloo Marish, the Special Rapporteur asked for clarification and reasons in support of the Government's reply according to which the allegations transmitted were incorrect and the victims had committed suicide. He also asked for additional information concerning the case of Nasir Marish who, according to the Government, had not died due to torture but

as a result of intoxication. The follow-up letter to the Government also transmitted allegations concerning reported killings of MQM workers, with a request to investigate the allegations.

368. At the time this report was finalized, no reply had been received from the Government to the follow-up letter.

Observations

369. The Special Rapporteur wishes to thank the Government for the replies to the urgent appeals he received, and hopes he will be provided with replies, in due course, concerning the other cases that were sent.

370. The Special Rapporteur continues to be deeply alarmed about the fact that under the national legislation of Pakistan, a minor can be subjected to capital punishment. He, therefore, again calls upon the Government of Pakistan to revise its legislation in this regard, so that it is in conformity with the international instruments.

371. He is deeply concerned about the massive flow of allegations of extrajudicial, summary or arbitrary executions, in particular of MQM workers, by the police, law enforcement officials, security forces and the paramilitary Rangers. The Special Rapporteur finds the reports about the Haqiqi particularly disturbing. He regrets that so far he has received no reply to his follow-up letter which sought clarification of the allegations and calls upon the Government to investigate the allegations, to take all measures to prevent the recurrence of such incidents and to bring those responsible to justice, with full compensation to the victims.

372. The Special Rapporteur is very concerned about the large numbers of deaths in custody. Again he calls upon the Government of Pakistan to carry out impartial and exhaustive investigations into these allegations. He calls upon the authorities to bring the conditions of detention into line with international instruments.

## Panama

373. By letter dated 25 September 1995, the following cases were transmitted to the Government of Panama: Carlos Alberto Brown, Luis Kolked Kolked, Lorenzo Batista and Rufino Frias Córdoba, reportedly killed in August 1995 by members of the police during a demonstration of workers in Panama. The demonstration reportedly had been organized by trade unions to protest against reforms of the Labour Code.

374. At the time of finalization of the present report, no reply had been received from the Government of Panama.

## Papua New Guinea

375. The Special Rapporteur visited Papua New Guinea from 21 to 28 October 1995, following an invitation from the Government made pursuant to paragraph 5 of Commission on Human Rights resolution 1995/65. The visit was intended to examine the situation of the right to life, in particular in

the Papua New Guinea island of Bougainville. The Special Rapporteur regrets that unforeseen technical difficulties prevented him from visiting the central area of Bougainville. His findings, conclusions and recommendations with regard to the visit can be found in the second addendum to the present report (E/CN.4/1996/4/Add.2).

Allegations transmitted

376. The Special Rapporteur transmitted to the Government of Papua New Guinea the following 75 cases of alleged extrajudicial, summary or arbitrary executions, including 6 women and 6 children:

(a) Reported killings by members of the Papua New Guinea Defence Forces (PNGDF) or members of the Papua New Guinea Army (PNGA): Ken Savia; Ona Damien, Bobonung Apiato and Robert, killed in central Bougainville in retaliation for the killings of PNGDF soldiers; Kenevi William (aged 15), Minou Thomas (aged 14) and Abe Winifred (aged 13), killed at the Tabago Care Centre; an unidentified man killed in southern Bougainville; Matomali and Mavi; Duni Clement, killed in Arawa; Akuila Monko (aged 15); Kimits, killed in the Boku Care Centre; 2 unidentified persons; Joachim Otu, Chief of the Marouku village; 5 unidentified civilians, including 2 women, killed in retaliation for the killing of 17 soldiers; Bogasin Jerry and Zioto Jemmie, shot dead when their canoe was attacked; Dompua Patrick, Parinara, Simba and Karika; Nanuma Danny and Mirio Kuirua; an unidentified boy (aged 17) from Siinepeku; unidentified civilian (aged 56); Posbli Channel and his brother; Bare Allan, killed in Densiro village during a raid; Francis Kerepe and Montai David, killed in Laguai village; Ambrose Kauto; Turupia Jerry; Taruma; Nomia Kevin and Pakua Daniel; Bruno and Parape Sauko; Passako Samson, Matakau Amos and Nomia Paun, unarmed, killed while on their way to a peace ceremony; Minou Wester, Minou Felix, Monopa Pito, Solomon Henry; Papatam Henry, Otu Joachim, Tauria Edward, Posena John, Lowaro Joseph and Baubake Thomas, killed in Laguai village in Buin; Duakenu Martin, Manau, Karapetu Kakiri, Bampu and Kamo Mona (female); Tampura Gibson and 4 unidentified persons; Kaupa, reportedly burnt alive on the beach after having been tied to a pole; Toromura Nava, Gabriel Tameung, Torome Karvai, Nathan Bireo, Diven Hoara, Peter Taving and Nick Tobal, reportedly tortured to death; Tovue Sipora (female), her 9-year-old daughter and 3-month-old son, Tovue Gideon; 4 unidentified persons allegedly supporters of the Bougainville Revolutionary Army, killed by PNGDF soldiers when seeking medical treatment at a care centre; Korakei John, Soba Thomas, Kara John; Gabriel Kungkeiu.

Observations

377. The Special Rapporteur wishes to thank the Government for inviting him to visit Papua New Guinea, and the willingness to cooperate with his mandate. He regrets, however, that at the time this report was finalized no reply had been received to the allegations transmitted.

378. The Special Rapporteur welcomes the Government's initiative to investigate the alleged killings perpetrated by the PNGDF. He hopes that the inquiry will result in apprehension and trial of the relevant suspects.

Paraguay

379. The Special Rapporteur transmitted one urgent appeal to the Government of Paraguay, concerning Alberto Alderete, who had reportedly received anonymous telephoned death threats, apparently linked to his work as a lawyer in Asunción where he was representing peasant farmers who had allegedly been killed or injured in a clash with the police (3 October 1995).

Peru

380. Reports received during 1995 suggest that despite a reduction in the number of extrajudicial, summary or arbitrary executions since the beginning of 1993, violations of the right to life persist in Peru. In addition, it has been alleged that systematic impunity in Peru has been encouraged by the promulgation of an amnesty law which terminated investigations and judicial proceedings linked to past human rights violations, and rendered ineffective those sentences which had been imposed for such crimes.

381. The Special Rapporteur received information about the promulgation of laws 26479 and 26492 of 14 June and 2 July 1995 respectively. Under the first law, a general amnesty was granted to all military, police or civil officials who were investigated or condemned since May 1980 for human rights violations committed within the framework of the struggle against terrorism and drug trafficking. Regarding the La Cantuta case and the Barrios Altos murders, those who were the subject of judicial proceedings were not only released but also fully reinstated to their original positions. The second law declares that the amnesty is not subject to judicial review and does not constitute a violation of the Constitution, nor does it violate Peru's international obligations.

382. It was reported that members of the judiciary, lawyers and human rights activists who expressed opposition to the laws have been harassed and received death threats.

Allegations transmitted

383. The Special Rapporteur sent nine urgent appeals to the Government of Peru, in which he expressed concern for the lives and physical integrity of:

(a) Zenón Alfredo Echevarría Araujo, who received death threats reportedly from the paramilitary group he had accused of having killed his mother (20 April 1995);

(b) Antonia E. Saquicuray Sánchez, judge, and Ana Cecilia Magallanes, prosecutor, relatives of the victims of the Barrios Altos and La Cantuta massacres; General Rodolfo Robles Espinoza, a dissident army officer, and Tito Guido Gallegos Gallegos, human rights lawyer, after they expressed their opposition to the amnesty law promulgated in June 1995 (30 June 1995). A second urgent action was sent on 17 July 1995 on behalf of Tito Guido Gallegos Gallegos, who continued to receive death threats in connection with his work in defence of victims of human rights violations. A third urgent action on

his behalf was sent on 11 September 1995, after he was reported to have received further death threats. Another urgent action was sent on behalf of Rodolfo Robles Espinoza after new death threats (4 October 1995).

(c) Gloria Cano Legua, human rights lawyer for a survivor of the Barrios Altos massacre, after she reportedly received death threats apparently related to her work (14 July 1995);

(d) Juana Angélica Matías Ronceros, lawyer and counsellor of the Asociación Nacional de Familiares y Víctimas del Terrorismo, after she reportedly received death threats from members of the National Intelligence Service (31 July 1995);

(e) Susana Villarán, Francisco Soberón, Ernesto de la Jara, human rights activists, Gisela Ortíz and Raida Condor, relatives of La Cantuta victims, Heriberto Benítez, lawyer, General Rodolfo Robles, dissident army officer, and Henry Pease, Javier Diez Canseco and Gustavo Mohme, congressmen, also reportedly received death threats. The aforementioned persons had advocated revocation of the amnesty law which came into effect in June 1995 (21 November 1995).

384. The Special Rapporteur sent a joint urgent appeal, together with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture and the Chairman of the Working Group on Enforced or Involuntary Disappearances. In the appeal the signatories expressed their deep concern over the adoption of laws 26479 and 26492 (2 August 1995).

385. The Special Rapporteur transmitted the allegations concerning the following persons which had been brought to his attention:

(a) Reportedly killed by members of the National Police: Gregoria Elena Vargas Luna and Victor Andrés Carranza Ventocilla;

(b) Reportedly killed while in custody or died shortly after release: Justiniano Hurtado Torres, a 64-year-old butcher, who allegedly died as a consequence of the ill-treatment sustained while he was in detention in the military base of Aguaytia; Jhoel Huaman García, 19 years old; Rafael Roque Castro and an unidentified individual, reportedly killed in Quenqoro prison in Cuzco; Edwin Meliton Cardenas, who reportedly died in the maximum security prison in Yanamayo, Puno, reportedly because medical attention was withheld.

386. The Special Rapporteur requested the Government to carry out investigations into the cases of: Yenuere Antonio Chihuala Cruz, 14 years old, reportedly forcibly recruited by the army, who died in the military hospital of Bagua as a consequence of the injuries sustained by the explosion of a mine; Wilder Alex Osorio Palacios, a 21-year-old student at the Daniel Alcides Carrion National University, who reportedly died as a result of the injuries and ill-treatment sustained after having been detained by members of the army during a recruitment operation of the military; Carlos Abad Núñez Gutierrez, a 21-year-old student at the Navy Technical Education Centre, reportedly killed by a member of the army.

Communications received

387. The Government of Peru provided information on a large number of allegations which had been sent to it in 1994 and 1995. Regarding the cases of Juan Ascuy, José Vargas López, Juan López Bujaico, Mario Vargas Alejo, Alberto Cusi Cancce, Edgar Barreto Huaynapoma, Teodosi Peña Gutiérrez, Máximo Antezana Espeza, Hernán López Antezama and Javier López Antezama, the Government declared that an investigation into the killings has been initiated and that members of the Rondas self-defence units of San Fernando de Maritari appeared to be responsible for the killings (20 October 1995).

388. With reference to the cases of Jéssica Rosa Chavez Ruíz, Pedro Javier Cruz Guzmán and Héctor Rodríguez Rodríguez, the Government replied that members of the Peruvian police were allegedly responsible for the deaths and that judicial procedures are under way (20 October 1995). The Government of Peru had previously informed the Special Rapporteur that the victims were members of the Movimiento Revolucionario Tupac Amaru and that according to initial investigations the killings appeared to have been lawful (12 January 1995).

389. Information on the death of Hugo Zapata Gutiérrez asserted that investigations suggested that eight members of the rondas campesinas of Ulcamayo were responsible for the killing and that judicial proceedings were under way. Regarding the case of Luis Alberto Bonifacio Aimituma, investigations had been initiated but no suspects had yet been identified (20 October 1995).

390. The Government provided a reply to the case of Pedro Honorato Dávila Espinoza, according to which the case had been provisionally filed as the police investigation failed to identify any suspects. However, charges have been brought against the chief of police of Aucayacu for not having registered any document related to the death of the victim (24 July 1995).

391. The Government of Peru provided an answer to the joint urgent appeal regarding the amnesty law. In the communiqué, the Government stated that despite the fact that Peru had and continued to face serious problems such as terrorism, the country remained firm in its commitment to the process of strengthening democracy. The Government referred to the fact that according to section 55 of the Peruvian Constitution international treaties concluded by Peru become part of the national law. The reply further states that the constitutional power of Congress to grant amnesty does not contravene the relevant international treaties which do not expressly prohibit the implementation of relevant constitutional articles which give Congress the power to grant amnesty. In addition, the Government referred to other measures which were adopted to consolidate the peace process, which included the "flexibility of the anti-terrorist legislation" which abolished, as from 15 October 1995, the institution of "faceless judges"; prison reform; the initiation of a human rights education policy; a national register of detainees; the enactment of the Constitutional Court Organization Act; the reform of the National Judicature Council and the creation of the Ombudsman Organization (6 September 1995).

392. Information was provided on the case of Gloria Cano Legua. According to the Government, measures to protect her life and physical integrity had been adopted. The reply furthermore stated that there were no indications that the armed forces were responsible for such death threats. The Government also reported that in the case of death threats received by Juana Angélica Matias Ronceros, the victim had not yet presented a complaint to the police and that no government officials were involved in such threats. The Government also forwarded a copy of the judicial resolution which rejected (declaró improcedente) the writ of habeas corpus presented by Angélica Matías Ronceros (9 October 1995).

393. In addition, the Government referred to the death threats received by Zenón Alfredo Echevarría Araujo, pointing out that he was wanted for his alleged participation in the killing of Manuel, Isidro and Pascal Cruzado Ruíz. Previously, a complaint had been filed against Manuel Cruzado Ruíz, Flavio Contreras Chávez, Celso Vera Ulloa, Félix Vera Ochoa and Santos Vera Ochoa for their alleged participation in the killing of Saragosa Araujo Chuquibala, mother of Zenón Alfredo Echevarría Araujo (9 October 1995).

394. By note verbale of 20 October 1995, the Government confirmed that in the cases of Kisinger López Ruíz, José Alcazar Gómez and Francisco Diaz Mansilla, policemen had been held responsible for their death.

Observations

395. The Special Rapporteur highly appreciates the willingness of the Government of Peru to cooperate and the replies it provided to cases sent as well as the general information relating to the mandate. He welcomes the implementation of certain recommendations made after his visit to Peru in 1992, but is aware that the situation of violations of the right to life, particularly death threats and killings perpetrated by members of the army and paramilitary groups, with impunity continue to be the main obstacles to the respect for the right to life in Peru.

396. The Special Rapporteur remains extremely concerned about harassment of members of the judiciary after they expressed their opposition to the amnesty law. In this context, he wishes once again to call on the Government to adopt all necessary measures to ensure that members of the judiciary exercise their function without being subjected to any form of intimidation, in accordance with the guarantees contained in the Basic Principles on the Role of Lawyers, the Guidelines on the role of Prosecutors and the Basic Principles on the Independence of the Judiciary.

397. The Special Rapporteur considers that the promulgation of an amnesty law in June 1995 favours impunity and denies the right to an effective remedy for victims of human rights violations. Moreover, it is contrary to the spirit of general international law, according to which States are obliged to investigate allegations of human rights violations, ensure that perpetrators are brought to justice and provide means of redress, including compensation to victims. In addition, the Human Rights Committee has declared on various occasions in its consideration of government reports to the Committee regarding laws of this nature that pardons and general amnesties promote an atmosphere of impunity for the perpetrators of human rights violations and

members of the security forces, and that respect for human rights can be weakened if such impunity is guaranteed. Furthermore, the Special Rapporteur would like to point out that it is axiomatic that a State's national law may not be invoked to avoid its obligations under international law. Article 27 of the Vienna Convention on the Law of Treaties sets forth in this regard that "a party may not invoke the provision of its internal law as justification for its failure to perform a treaty".

## Philippines

398. The Special Rapporteur continued to receive reports of alleged violations of the right to life that occur in the Philippines. Contrary to previous years, the Special Rapporteur received very little information about violations of the right to life committed by members of the paramilitary Citizen's Armed Forces Geographical Units (CAFGU).

### Allegations transmitted

399. In 1995, the Special Rapporteur sent the following four cases to the Government of the Philippines, two of which were related to the alleged extrajudicial killing of a woman: Ranilo E. Quindao, a member of the Diocesan Mission team, reportedly killed on 2 December 1994 by an unidentified person; Conchita Bajao reportedly died on 23 September 1994 as a result of injuries suffered following her arrest in Cotabato City, Mindanao Island, by members of the Philippine National Police Force; Anieto de Regino, considered by the military to be a member of the New People's Army (NPA) armed resistance, reportedly died on 1 April 1994 at Lope de Vega, northern Samar, after a CAFGU member opened fire on him; Nonita Din (female), active member of the National Federation of Sugar Workers trade union, reportedly shot dead on 29 January 1995, by members of the armed security forces of the Philippine-American Timber Corporation-Land Improvement Division.

### Communications received

400. On 12 and 22 December 1994, the Government of the Philippines sent replies to the follow-up letter sent to the Government on 23 September 1994:

(a) Concerning the case of Chris Batan, reportedly killed while investigating human rights violations under the Marcos regime, which had been transmitted to the Government on 27 April 1990, the Government informed the Special Rapporteur that two of the alleged killers had been arrested. The case was still before the Regional Trial Court of Baguio and Benguet;

(b) Concerning the case of Clovis Nazareno, the Government informed the Special Rapporteur about several legal procedures started on his behalf;

(c) In the case of the death of Lolita Haz, a complaint of murder was filed against the alleged perpetrator;

(d) In the case of alleged harassment of Sonia Soto, the Government informed the Special Rapporteur that the investigation had been closed on 15 August 1994 because of lack of cooperation of Ms. Soto.

401. The Government replies will be transmitted to the sources.

Observations

402. The Special Rapporteur wishes to thank the Government for the information it has provided and for its willingness to cooperate with his mandate. The Special Rapporteur encourages the National Human Rights Commission to continue its investigation of human rights violations that occur in the Philippines with the hope that procedures will be more formal and strengthened by the application of the relevant international standards.

Portugal

403. The Government of Portugal provided the Special Rapporteur with a reply to two urgent appeals which had been sent in 1994 concerning Antonio Ti Luo, a Bolivian national, who was allegedly facing extradition from Macau to the People's Republic of China (E/CN.4/1995/61, para. 269). The Government stated that formal guarantees had been given by the People's Republic of China that the death penalty would not be applied, and informed the Special Rapporteur that the Constitutional Court of Lisbon was investigating appeals of the Superior Court of Justice concerning similar cases, which could eventually result in a revision of the decision to allow Mr. Ti Luo's extradition. However, Mr. Ti Luo had disappeared, and it was assumed that he had left the territory of Macau (24 March 1995).

Republic of Moldova

Allegations transmitted

404. The Special Rapporteur sent to the Government of the Republic of Moldova the case of Aleksandr Pavlovich Kalashnikov, who reportedly died in police custody in the town of Rybnitsa on 27 March 1995.

Observations

405. The Special Rapporteur regrets the fact that at the time the present report was finalized, no reply had been received from the Government. The Special Rapporteur welcomes, however, the fact that on 15 June 1995 the Moldovan Parliament further limited the application of the death penalty by abolishing the death penalty as a punishment for 14 military crimes committed during a state of war or during combat operations.

Romania

406. The Special Rapporteur transmitted to the Government of Romania the case of Alfred Pana, who reportedly died on 6 July 1995 in Gura Vaii as a result of injuries sustained upon his arrest.

Observations

407. The Special Rapporteur regrets that at the time the present report was finalized, no reply had been received from the Government. He calls upon the Government to investigate the allegation.

## Russian Federation

408. Since December 1994, when Russian troops started an offensive against the population of Chechnya, the Special Rapporteur has received many reports about violations of the right to life of civilians, refugees and displaced persons in the region. Over 1,500 Russian soldiers and an unknown number of Chechen fighters have reportedly died and estimates of civilians killed range from thousands to tens of thousands. For an overview of the situation in Chechnya, reference is made to the report of the Secretary-General on the situation in Chechnya (E/CN.4/1996/13).

### Allegations transmitted

409. The Special Rapporteur in 1995 sent six urgent appeals to the Government of the Russian Federation, one of which was a joint urgent appeal together with the Special Rapporteur on torture. Three of the appeals were related to the situation in Chechnya:

(a) The Special Rapporteur sent an urgent appeal to the Government of the Russian Federation after he had been informed that six civilians, including four women, were reportedly shot dead on 17 December 1994 by Russian troops when they tried to escape in a convoy from a village in Chechnya. Further reports had been received about hundreds of civilians killed since Russian troops entered the territory on 11 December 1994 (5 January 1995). A follow-up urgent appeal was sent after information was received about continuing attacks by Russian troops causing civilian casualties, especially in the city of Grozny (13 January 1995). After continuously receiving information about the deteriorating situation of civilians in Chechnya, a joint urgent appeal was sent by the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the question of torture, expressing their concern about reports of abuses by Russian troops. Between 100 and 300 civilians had reportedly been killed during a raid on the village of Samashki, which began on 7 April 1995. Civilians were said to have been summarily executed and detainees in camps in Assinovskaya and Mozdok had allegedly been ill-treated and tortured (5 May 1995). The Special Rapporteur sent a fourth urgent appeal when fears were expressed for the lives of civilians of the town of Sernovodsk, which was reportedly surrounded by Russian troops (3 October 1995);

(b) The Special Rapporteur sent an urgent appeal to the Government concerning the imminent judicial execution of Valery Vasilyevich Parshin, who was reportedly mentally ill (8 May 1995);

(c) The Special Rapporteur sent an urgent appeal concerning Shirali Normuradov, an artist and political activist and national of Turkmenistan, allegedly living in the Russian Federation without any legal status. He was reportedly at risk of being extradited to Turkmenistan where his life might be in danger because of his previous political activities against the Government of Turkmenistan (18 October 1995).

410. The Special Rapporteur also sent the following five cases to the Government of the Russian Federation, all of them in respect of the violation

of the right to life in Chechnya of 109 civilians, including at least two children: Sergei Taramov and an unidentified man, allegedly killed on 23 March 1995 when their car was reportedly attacked by a Russian helicopter in the town of Tstsin-Yurt, Chechnya; seven refugees whose names remain unknown, allegedly killed by Russian forces on 24 March 1995 in Elistanzhi, Chechnya; two unidentified children reportedly killed on 6 April 1995 by indiscriminate rocket-bomb attacks by Russian forces in the town of Niki-Khita, Chechnya; 94 unidentified civilians who were reportedly killed around 7 April 1995 during attacks by Russian forces against the village of Samashki, Chechnya; Abukha Doguyev, Rozenbek Tadtayev, Mr. Ismuradov and Mr. Dukayev, reportedly killed on 24 April 1995 as a result of indiscriminate bombing by Russian forces in the town of Nozhai-Yurt, Chechnya.

Communications received

411. The Government replied to the urgent appeal of 5 January 1995 about fears for the lives of the civilian population of Chechnya, and informed the Special Rapporteur that on 17 December 1994, a Russian military convoy had been ambushed. During the fight some Russian soldiers had fired upon two cars driven by Chechen and Ingush refugees after they had misinterpreted their approach as an attack from the rear. Four refugees were wounded and one died. The Government furthermore stated that the allegations as mentioned in the urgent appeal were not true, and that investigations were started (27 March 1995).

412. The Special Rapporteur also received a reply to the joint urgent appeal sent on 5 May 1995, concerning events in the village of Samashki, Chechnya. The Government informed the Special Rapporteur that after several peaceful attempts to disarm the village, Russian troops had entered the place and a battle had started, during which both military and civilians were killed and houses were destroyed. Investigations had started by the Government to find out whether Russian troops had been involved in the killings (15 August 1995).

Observations

413. The Special Rapporteur thanks the Government for the replies it has provided. He remains deeply concerned, however, about the large number of civilians who were allegedly killed in Chechnya, including women and children as well as elderly people, in violation of humanitarian law. Furthermore, he urges the Government to take every measure to protect the lives of the civilian population and to identify perpetrators of human rights and humanitarian law violations, to compensate victims and to prevent the recurrence of such incidents in the future.

Rwanda

414. The Special Rapporteur continued to receive reports of testimonies concerning summary executions perpetrated by Rwandan soldiers against civilians, particularly returning refugees and persons living in camps for the displaced. The Special Rapporteur is particularly alarmed by the following two incidents which resulted in the death of numerous civilians.

415. The Special Rapporteur received information regarding an ambush which took place on 11 September 1995, in the commune of Kanama, by 8 to 10 persons wearing military uniforms. It has been reported to the Special Rapporteur that the assailants opened fire on the car of a Rwandan Patriotic Army (RPA) officer, Sergeant-Lieutenant Rurasa, which resulted in his death. Three other individuals also died. This incident reportedly preceded by a few hours a massacre which took place a few hundred metres from the site of the ambush and which claimed the lives of 109 persons. According to information received by the Special Rapporteur, RPA soldiers dispatched by RPA Major Rwingamba to conduct a search of the area and locate the assailants went from house to house and shot indiscriminately men, women and children.

416. The Special Rapporteur was also informed about the Kibeho massacre which reportedly occurred between 15 and 21 April 1995, when the Rwandan authorities ordered the closure of the displaced persons camp owing to the security threat it posed to the region. The presence of more than 2,000 soldiers around the camp, combined with the shots they fired into the air, caused a panic, resulting in a stampede which caused the death of numerous persons. Information received by the Special Rapporteur reveals that following the evacuation of the 120,000 displaced persons from the camp, 1,500 to 2,000 persons were reported to have died in incidents involving executions by militiamen, shootings by the PRA and stampedes. For a detailed analysis of the situation of human rights in Rwanda, reference is made to the report of the Special Rapporteur on the situation in that country (E/CN.4/1996/68).

Allegations transmitted

417. The Special Rapporteur transmitted to the Government an urgent appeal concerning Captain David Rwapapa and Lieutenant Innocent Ngoga, both RPA officers, who were reportedly sentenced to death by a "court martial" for their alleged involvement in an attack in late 1994 on the Tanzanian Embassy in Kigali, during which two night guards were killed. Information received by the Special Rapporteur suggests that the procedures applied in the course of the trial did not conform to international standards, as the right to review was denied. Contrary to provisions in the Rwandan Constitution which grant a defendant the right to appeal first in the military court and then to the Supreme Court, which is a civilian court, the above-mentioned persons were reportedly denied the right to have their sentences reviewed (6 June 1995).

Observations

418. The Special Rapporteur remains deeply concerned about recurring violations of the right to life by army personnel as well as about the absence of an effective judicial system.

419. The Special Rapporteur is concerned about the death sentences which were imposed on two military officers by a "court martial". These death sentences were the first to be handed down under the present Government. The Special Rapporteur fears that this might create a precedent for a possible widespread, systematic imposition of the death penalty in Rwanda, even though the judicial

system is not functioning properly. He is concerned that, as a consequence, the rights of those facing the death penalty might not be guaranteed, and that the international standards for a fair trial might be ignored.

420. In addition, the Special Rapporteur is dismayed at the fate of Rwandan refugees in Zaire who are still living in camps where those suspected of involvement in the genocide are manipulating them. He is deeply concerned about the climate of tension and violence which is emerging in the region. He urges the Rwandan Government to take all necessary security measures to ensure a voluntary return of the refugees. Moreover, he wishes to express his deepest concern at the intolerable and life-threatening prison conditions in Rwanda for those detained without trial on accusations of genocide which have not been properly investigated.

## Saudi Arabia

421. According to the information received by the Special Rapporteur, there has been a sharp increase in the number of executions carried out in 1995 by the Government of Saudi Arabia. In addition, information received by the Special Rapporteur suggests that 70 per cent of the persons executed in the past three years were foreigners; prisoners facing the death penalty are denied the right to counsel; confessions are allegedly obtained under torture and then accepted by the courts as evidence; and that in general, the legal proceedings preceding their convictions do not conform to international safeguards guaranteeing a fair trial.

### Allegations transmitted

422. The Special Rapporteur sent two urgent appeals to the Government of Saudi Arabia, both concerning death sentences reportedly imposed after a trial falling short of international standards for a fair trial:

(a) Mehmet Nuri Koseoglu, Seyfettin Erkut, Ahmet Mulayim and Fevzi Dana, of Turkish nationality (22 August 1995). In the same urgent appeal, the Special Rapporteur expressed his concern about the fate of 40 additional individuals, also of Turkish nationality, 20 of whom were reported to be on death row, whereas the other 20 were facing charges which carry capital punishment. The persons referred to in the appeal are the following: Muhammed Aktas, Muhammet Kinci, Bekir Kaplan, Abdullah Besik, Halil Bozhurt, Cevat Kart, Nizamettin Las, Ismet Harci, Halil Karat, Ibrahim Akdalga, Abdussamet Arslan, Kemal Sabir, Halil Temurci, Bekir Kidan, Ferit Bostanci, Tashsin Danmas, Hilal Rende, Ziyad Akar, Ramazan Teke, Ali Say, Hasan Bozkurt, Hikmat Karanfil, Vechi Buyukasik, Cafer Keles, Ahmet Vemir, Nebil Cabir, Mustafa Bilge, Rasit Kartal, Yeter Merakli, Adem Ozhurt, Osman Eren, Ayhan Kilic, Mustafa Kir, Abdulkadir Gulmus, Ali Kaya, Mehmet Sinanoglu, Fazil Oklu, Asaf Milli and Yalcin Porat;

(b) Muhammad Jamal 'Ali, 'Abd al-qadir Muhammad Muqtar, Faqay Haji Cusman, Sali Id Farah Yacqub, Muhammad Nur Muhammad, Muhammad Abu 'Abd al-Qadir Ade and 'Abd al-'Aziz Muhammad Isse, of Somali nationality, who were reportedly sentenced to death in 1994 for the alleged murder of three persons. All of them were reported to have insisted on their innocence, and it was said that 'Abd al-'Aziz Muhammad Isse was not in the country at the

time when the crime was committed (2 May 1995). The Special Rapporteur learned with regret that two of the above-mentioned individuals, Sali Id F. Yacqub and Muhammad Nur Muhammad, were executed.

423. The Special Rapporteur, in 1995, also transmitted to the Government allegations he had received concerning the summary execution of Abdullah 'Abd Al-Rahman Al-Hudhayf on 12 August 1995. According to information received, the aforementioned person had initially been sentenced to 20 years' imprisonment, but for unknown reasons his sentence was later increased to capital punishment by a court in Riyadh.

Observations

424. The Special Rapporteur regrets that no replies had been received from the Government. He remains concerned about the recurrence of reported death sentences in Saudi Arabia. He is particularly dismayed about the reported death sentences imposed on foreigners after trials which take place without affording the accused the right to counsel and the right to interpretation. He urges the Government of Saudi Arabia to ensure that the procedures applicable during trials leading to the possible imposition of capital punishment comply with the provisions contained in the relevant international instruments.

## Sierra Leone

425. During the period under review, the Special Rapporteur transmitted to the Government of Sierra Leone the cases of the alleged killings of Father Felim McCallister, an Irish priest, Dr. Elco Krijn, a Dutch doctor, his wife Karen van Goudoever, their three-year-old daughter Zita and 11 unidentified civilians from Sierra Leone who were allegedly killed during an armed attack near a hospital at Panguma, Kenema District, by men dressed in army uniforms. Reportedly, property belonging to the foreigners was subsequently found in the home of an army lieutenant. It is alleged that a commission of inquiry was set up to investigate the killings and recommended that two army commanders be brought immediately before a court martial. They were reported to be arrested but released shortly afterwards, without being prosecuted. They were reported to have resumed their service in the army of Sierra Leone.

426. Furthermore, the Special Rapporteur transmitted the case of Patrick Kebbie, lawyer, who was reportedly killed by soldiers in front of his home in Kenema. It was alleged that the victim had recently been offered the post of Director of Public Prosecutions by the National Provisional Ruling Council.

Observations

427. The Special Rapporteur regrets that at the time the present report was finalized, no reply had been received from the Government. He calls upon the Government to investigate the allegations. Furthermore, he wishes to note that allegations received are only an indication of the total breakdown of the

rule of law in Sierra Leone where reports indicated that widespread violations of abuses, including violations of the right to life, arising as a result of internal conflicts, are taking place.

## Singapore

428. The Special Rapporteur received a number of reports concerning the application of the death sentence in Singapore, particularly relating to drugs-related crimes. The Special Rapporteur was informed in September 1995 that since the beginning of 1995, 37 executions had taken place in Singapore. Most of the death sentences are reported to be imposed for drugs-related offences, for which the death sentence is mandatory. According to the Act of Parliament which is known as the Misuse of Drugs Act, anyone over the age of 18 who is found in the possession of more than 15 grams of heroin, 30 grams of morphine, 30 grams of cocaine or 500 grams of cannabis is presumed guilty of drug trafficking and is liable to a mandatory death sentence.

### Allegations transmitted

429. The Special Rapporteur, in 1995, sent three urgent appeals to the Government of Singapore for the following persons, all concerning death penalty cases, two of which after an allegedly unfair trial:

(a) Flor Contemplación, a domestic worker of Filipino origin, who was reportedly facing imminent execution after an alleged unfair trial. It had been brought to the Special Rapporteur's attention that the courts trying her reportedly had not considered new reports that Mrs. Contemplación was suffering from a mental illness. It was also reported that the prosecution and defence had not made any submissions during the trial and, furthermore, the conviction was reported to be based solely on a confession that Ms. Contemplación had made to the police (15 March 1995);

(b) Melvin Seet, who was reportedly facing imminent execution after an allegedly unfair trial. He had been convicted of aiding and abetting the trafficking of drugs. According to the information received, although he had lost his appeal in 1993, he reportedly notified the authorities of his intention to submit a supplementary petition for clemency, on the basis of the affidavits of two of the co-accused who stated that Mr. Seet had not been involved in the offence. He had reportedly been informed that he had been given until 7 June 1995 to submit his appeal, and yet, on 5 June 1995, he was informed that he was scheduled to be hanged on 9 June 1995. It was furthermore alleged that his conviction was based on one single piece of evidence (8 June 1995);

(c) Veerarajoo s/o Veerasamy, reportedly convicted of possession of drugs. The Special Rapporteur informed the Government that the Misuse of Drugs Act violates the principle found in article 14, paragraph 2, of the International Covenant on Civil and Political Rights, which states that "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law". It had been alleged that a consequence of the Misuse of Drugs Act was that the person accused has the burden of proving his innocence, as he is presumed to be guilty.

Communications received

430. The Government of Singapore replied to the urgent appeal sent by the Special Rapporteur on 21 July 1994, containing allegations about the death sentences imposed on Abdullah bin Rahman and Lim Choon Chye for aiding and abetting in drug trafficking. The Government stated that the sentences were imposed after those convicted had been afforded due legal process, during which they had been provided with adequate legal assistance at all stages. The Government informed the Special Rapporteur that their right to appeal and the right to petition for clemency had been respected and that the two had applied to the Court of Appeal for a revision of their convictions on the ground that there was fresh evidence. The applications were dismissed by the Court of Appeal as it had no jurisdiction to reopen the case, after which a further petition to the President for clemency on the grounds of new evidence was also rejected. The Government also provided the Special Rapporteur with a document containing information about the procedures for trials of capital cases in Singapore (7 February 1995).

431. The Government sent a letter to the Special Rapporteur, commenting on the reference made to Singapore in the Special Rapporteur's report to the Commission on Human Rights, particularly with regard to the cases of Abdulah Rahman and Lim Choon Chye, for which a reply had been sent on 7 February 1995 (23 February 1995).

432. The Government provided the Special Rapporteur with a very detailed reply in the case of the execution of Mrs. Flor Contemplación. The Government stated that she had been given full recourse to the process, which included a fair and open trial, the right to appeal and the right to seek pardon or commutation of the sentence. The trial judge concluded that she did not suffer from any mental abnormality at the time of the killing and accordingly found her guilty as charged. The Government also stated that allegations that prosecution and defence had not made submissions were not true. The judgement furthermore had been based on other evidence apart from Mrs. Contemplación's statement before the police and the "new evidence" was thoroughly investigated and found to be untrue (14 June 1995).

433. The Government of Singapore sent a reply concerning the allegations sent in an urgent appeal to the Government on 8 June 1995 concerning the imposition of the death penalty on Melvin Seet, for the offence of aiding and abetting in the trafficking in drugs. The Government stated that he had been given full recourse to due legal process which included a fair and open trial, the right to legal assistance at all stages as well as the right to appeal and seek pardon. The Government furthermore informed the Special Rapporteur about the fact that Mr. Seet had been allowed to pursue a complaint against his former counsel to the Law Society, after his appeal had been dismissed by the Court of Appeal, and was subsequently given time to take this matter to the High Court and the Court of Appeal. The Special Rapporteur was also informed that the scheduling of the execution did not affect the consideration of Mr. Seet's supplementary petition for clemency, because this petition was carefully considered before the decision to proceed with the execution was made. A summary of the legal procedure regarding the imposition of the death penalty in the case of Mr. Seet was included in the reply (22 June 1995).

Observations

434. The Special Rapporteur wishes to express his appreciation for the willingness of the Singapore Government to cooperate with the mandate. The replies provided by the Government in response to two of the urgent appeals are very detailed, and have given the Special Rapporteur a better idea of the judicial system in Singapore, particularly in relation to capital offences.

435. The Special Rapporteur remains concerned, however, with the existence of laws, particularly those relating to drugs offences, under which trials are taking place which do not provide sufficient guarantees for the presumption of innocence. This puts on the person accused the burden of proving his or her innocence. Another consequence of these laws is that, owing to their very strict formulation, they do not leave any discretion to the judiciary to take the specific facts and circumstances of every individual case into consideration. This leaves the judges no other option but the mandatory imposition of the death penalty, once they conclude that the accused person is guilty. The Special Rapporteur therefore calls upon the Government of Singapore to change its Drugs Act so as to bring it into line with international standards.

## Sri Lanka

436. Reports and allegations received by the Special Rapporteur during 1995 indicate that the situation of human rights in Sri Lanka remains precarious. The renewal of hostilities between the Sri Lankan armed forces and the Liberation Tigers of Tamil Eelam (LTTE) have resulted in acts of violence which have claimed the lives of hundreds of civilians. It has also been reported that during the past several months, mutilated and tortured bodies of several persons were found floating in the Diyawanna Oya and Bolgoda Lakes. The Special Rapporteur received increasingly large numbers of allegations of extrajudicial and arbitrary executions resulting from recent incidents involving aerial bombardments by the Sri Lankan air force, naval strafing and shelling from military bases and indiscriminate firing by armed forces personnel which continue to cause numerous civilian casualties.

Allegations transmitted

437. The Special Rapporteur transmitted one urgent appeal to the Government of Sri Lanka on 20 July 1995, denouncing the military offensive launched against LTTE positions on the Jaffna Peninsula. According to reports received by the Special Rapporteur, the Government's military operation caused thousands of civilians to flee their homes and to seek shelter in churches and temples. Hundreds of people had taken refuge in Saint Peter's church in Navaly and Saint Peter's school when both structures were bombed, causing injury to more than 150 people and the death of 65 persons, including women and children. The source reports that the bombings have affected the following areas: Kokuvil, Thalayady, Maruthanamadam, Thavady, Uduvil, Marripay, Anaicotai, Sangarathai, Vaddukoddai and Navaly.

438. The Special Rapporteur also transmitted to the Government the following cases which had been brought to his attention:

(a) Reportedly killed by members of the armed forces: A. Antony and Indran; Matiy Ampillai Joseph and his son Joseph Moses Dayan, killed by members of the Sri Lankan navy; K. Thangarajah; Sellathurai Balakrishwan and Sellathurai Thandrakumar, killed by navy personnel; Thangarajah Kanagasabai; Antonipillai Mariadas, killed in Jaffna when Sri Lankan navy personnel attacked people fishing in the Mandativu sea near Jaffna; Abdul Manaf; Sivapalan Sivapraba and Nadarajah Gwanasekaram, shot dead by army personnel in Morakkoddanchewai village;

(b) Killed by indiscriminate firing by armed forces: Tharmarassa Rasaledchumi Thevi and Saverimuthu Rodesius, killed when the armed forces attacked Mallakam; Kivuthan, aged 10, Thamarasa, Laxumy, S. Akilan, aged 12, I. Leelavathy, I. Vanithadevi, aged 2, and P. Vinitha, aged 12, were killed during an attack by forces from the military base at Palaly in the Valikamam region; Thesingham Sellamani, Thesingahm Srikandarajah, Thesingham Sivasri, S. Pagini, C. Savakolunthu and Vallipuram Pararajalingham killed, when members of the armed forces bombarded a residential area in the town of Atchuvely; five Muslim civilians, including two children, killed by members of the armed forces when they indiscriminately fired from their camp near the village of Pulmaddai;

(c) Reportedly killed by police officers: Sinnithamby Kirupamoorthy, Kanapathipillai Ravichandran and Mylvaganam Amirthalingam, killed during a cordon-and-search operation in the Batticaloa district; Mavichandran Ragunathan, Rajalingam Mariayadas, Nadarajah Pararajasingham; Malathi Tharmalingham, shot dead in Batticaloa town while pleading for the release of her son; Ravichandran Kuganathan, Rajalingam Mariadas and Nadarajah Pararajasiwgham, killed in Vijayapuram, Batticaloa district.

439. In addition, the Special Rapporteur transmitted the case of Packiyarajah Ravindran, Alagian Thawgavel and S. Nagarajah, killed by a group of Muslim "Home Guards" in the course of an attack perpetrated by the "Home Guards" against civilians in the market at Palainaga Muttur in Trincomalee district. It was alleged that army personnel at a nearby camp took no action to halt the attack.

Communications received

440. By communication dated 5 January 1995, the Government of Sri Lanka provided information to the Special Rapporteur outlining several measures the Government intends to take to improve the human rights situation in the country. These include, inter alia: re-establishing the powers of the Human Rights Task Force to monitor the welfare of detainees and ensure that fundamental rights of people arrested and detained are respected; investigating incidents of human rights violations; bringing to justice those responsible and paying compensation, particularly in relation to incidents of extrajudicial executions.

441. The Special Rapporteur also received a letter from the Government dated 24 October 1995 in which the latter informed the Special Rapporteur that his communication concerning allegations of extrajudicial executions was received and was subsequently "forwarded to the relevant national authorities

in Sri Lanka for clarification". In the same communication, the Government of Sri Lanka provided general information on the situation of human rights in Sri Lanka.

Observations

442. The special Rapporteur notes with concern the deterioration of the dialogue between the LTTE and the Government. According to information received by the Special Rapporteur, the cease-fire agreement of 8 January 1995 ended in April 1995, resulting in new hostilities. Additional information received by the Special Rapporteur suggests that hostilities between government security forces and the LTTE during October 1995 have resulted in the death of approximately 196 government soldiers and 700 members of the LTTE, while the number of civilian casualties is unknown. The Special Rapporteur appeals to the authorities to respect humanitarian law and human rights principles.

443. The Special Rapporteur wishes to stress the need for restrictions on the use of force so as to prevent human rights abuses by security forces, paramilitary groups and armed civilians.

444. The Special Rapporteur wishes to reiterate his gratitude for the invitation from the Government to visit Sri Lanka. Despite the interest shown in conducting a visit during 1995, the crisis in which Burundi has plunged and a resolution requesting the Rapporteur to visit the Papua New Guinea island of Bougainville prevented him from undertaking such a visit. He hopes, however, to be in a position to visit Sri Lanka during 1996, to be able to study the situation of the right to life in situ, and to formulate, as appropriate, recommendations for improvement.

South Africa

445. In 1995, the Special Rapporteur received several reports of disturbances in December 1994 and the beginning of 1995 in the Mankunzane reserve area, which is politically dominated by traditional leaders aligned to the Inkatha Freedom Party (IFP). The local police, including the Matubatuba-based Internal Stability Unit (ISU) and the former KwaZulu "homeland" police force based at Esikhawini, are reportedly biased against members of the Congress of South African Trade Unions (COSATU)and the African National Congress (ANC), who they consider as anti-IFP. On several occasions, members of trade unions were harassed and threatened by armed groups while the police or the ISU when requested for help, refused to intervene. Reports were also received about harassment by members of the police. Some cases were brought to the Special Rapporteur's attention where whole families were harassed by armed groups or police for years.

446. Increased violence was also reported in the beginning of January in the KwaMsane-Mtubatuba area, where a group of heavily armed young men, identifying themselves with the IFP, embarked on a campaign to chase out of the area anyone perceived to be sympathetic to the ANC. These men were reportedly acting with the support of certain members of the KwaMsane police station which is still under the control of the former KwaZulu "homeland police".

447. With regard to the application of the death penalty in South Africa, the Special Rapporteur was informed that the Constitutional Court, which was established in February 1995, in a unanimous ruling had declared the death penalty unconstitutional, as it was in violation of the right not to be subjected to cruel, inhuman or degrading treatment or punishment, enshrined in section 11 (2) of the Constitution. Since November 1989, no one was reported to have been executed. In February 1990, a moratorium had been announced by President De Klerk. However, 243 criminals have received death sentences since the moratorium, and in June 1995, 453 prisoners were reported to be still on death row. The Special Rapporteur was informed that these death sentences would be commuted to life imprisonment.

Allegations transmitted

448. Since 25 November 1995, the Special Rapporteur, sent five urgent appeals concerning death threats and violence by the police. The urgent appeals were concerning the following persons:

(a) Mrs. M. Mtimkulu, a primary school teacher at KwaZulu, her husband, and two sons Kulekani and Nkululeko, who reportedly had been receiving death threats and had been attacked repeatedly since July 1994 by armed men enjoying the acquiescence of the police. Since then they are reported to have been harassed in their house. The car of one of the sons was shot in the presence of the KwaZulu police. In November 1994 their house was reportedly searched by the police for weapons after which threats were again issued against Mrs. Mtimkulu. It was brought to the Special Rapporteur's attention that since July 1994 security forces had taken no action to investigate the threats against the Mtimkulu family (2 December 1994);

(b) Qwelaba Nkwanyana and Clement Kumalo, as well as other members of the Nkanyana family, residents of the Mankunzane reserve, KwaZulu Natal. After four members of the family had reportedly been killed between September 1993 and July 1994, an attack by three unidentified men on Qwelaba Nkwanyana and his brothers Mthembenoi Nkwanyana, Vusi Nkwanyana and Clement Kumalo took place as they were on their way to the Mtunzini Magistrate's Court. During this attack Mthembeni and Vusi Nkwanyana were reportedly killed. It was reported that it took four hours before the police arrived at the scene and after a few days of detention, the only suspect who had been arrested was released. The Special Rapporteur requested information about the investigations carried out and effective measures taken to protect the life of the two survivors of the most recent attacks and their family (7 December 1994);

(c) Bheki Ntuli and J.J. (Davidson Jabulani) Ntuli, brothers, both ANC political activists, reportedly subjected to threats and attacks by armed men allegedly belonging to the IFP. It was brought to the Special Rapporteur's attention that prior to the threats, on 18 January 1995, the Ntuli family was attacked and the mother, Grace, was killed, along with a friend of the family, 18-year-old Thulani Mbatha. Bheki Ntuli, moreover, had survived a number of previous attacks on his life (31 January 1995). A follow-up appeal was sent on 17 March 1995, after the Special Rapporteur received additional information according to which the attacks and threats were continuing. In a third appeal, the Special Rapporteur reiterated his concerns previously expressed

after receiving reports that Bheki Ntuli and his brother had been fired at by a crowd while waiting at a bus stop. After fleeing to their house, the brothers reportedly asked assistance from the ISU, who upon arrival did not disperse the crowd outside the house but ordered the brothers at gunpoint to lie down on the ground and threatened them. Later, an army patrol arrived on the spot and dispersed the crowd. The brothers were taken into police custody, and in their absence their house was looted and burned to the ground. They were subsequently released (18 May 1995).

Communications received

449. The Government acknowledged receipt of the urgent appeal dated 18 May 1995 (24 May 1995). At the time the present report was finalized, no reply to the other urgent appeals had been received.

Observations

450. The Special Rapporteur thanks the Government for the acknowledgement of receipt of the urgent appeal, but regrets the fact that no additional information has been provided to him. He welcomes the interpretation by the Constitutional Court that the death penalty not only constitutes a violation of the right to life but also amounts to cruel, inhuman and degrading treatment. The Special Rapporteur highly appreciates that South Africa decided to abolish the death penalty in spite of the high level of violence and criminality in the country and the devastating effects of apartheid laws and policies still suffered by the country.

451. The Special Rapporteur, however, remains very concerned about the continuing violence as well as the abuse of power by police and security forces. He is particularly concerned about reports and allegations of involvement of law enforcement officials in issuing death threats and using violence against political activists. He therefore calls upon the Government of South Africa to take measures to ensure that the rule of law will be followed, and to prevent the recurrence of similar incidents.

## Sudan

452. The Special Rapporteur received several reports concerning demonstrations in Khartoum in 1995, during which excessive use of force was used against demonstrators. For an analysis of the situation of human rights in the Sudan, reference is made to the report of the Special Rapporteur on the situation of human rights in the Sudan (E/CN.4/1996/62).

Allegations transmitted

453. The Special Rapporteur, in 1995, sent three urgent appeals to the Government of the Sudan, one of which jointly with the Special Rapporteur on the situation of human rights in the Sudan, concerning the following persons:

(a) Samira Hassan Ali Karrar, leader of a group of relatives of 28 army officers executed in 1990 and organizer of demonstrations and political activities on their behalf, who had reportedly received death threats from a security officer. On 25 February 1995, a demonstration took place during

which 28 female relatives of the officers accompanied by their children, commemorated the anniversary of the execution. Widad Hassan Ali Karrar was reportedly taken by the hair and had her head beaten against a wall, and other demonstrators were allegedly beaten and threatened by members of the security forces. The Special Rapporteur asked the Government of the Sudan to provide him with information concerning the allegations and asked protection for the life and physical integrity of the two persons mentioned above as well as the other relatives of the 28 executed officers (14 March 1995);

(b) Dr. Hashim Zeyada, a Sudanese national, and Dr. Jeosip Meuo, an Italian national, both working as volunteers for the humanitarian agency Comitate Colaborazione Medica, who were reportedly detained in Pariang on or around 29 May 1995 by a unit of government troops based in Bentia. In several reports fears had been expressed for their life and physical integrity. Consequently, the Special Rapporteur asked for information concerning these allegations and requested the Government to ensure the effective protection of the right to life and physical integrity of the above-mentioned persons (9 June 1995). The Special Rapporteur on torture had previously transmitted an urgent appeal concerning the same persons on 8 June 1995;

(c) On 19 September 1995, a joint urgent appeal was sent by the Chairman of the Working Group on Arbitrary Detention and the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on torture, and on the situation of human rights in the Sudan, in relation to a series of mass demonstrations that were taking place. The information received indicated that Abdal Rahman al-Amin, student, and Fayz Muhammed Ali were among at least five persons who were killed after security forces allegedly opened fire on demonstrators at Khartoum University. Further reports were received containing allegations of torture, arbitrary and incommunicado detention and arrests during different demonstrations. The Special Rapporteurs and the Chairman of the Working Group requested the Government to provide them with information about the above-mentioned allegations.

454. The Special Rapporteur sent the following two cases to the Government: Adalmonim Rahama, trade unionist, reportedly arrested on 11 September 1994 by security forces and taken to one of the so-called "ghost houses", which are secret detention places, in the town of Medani, Gazira province, where he was allegedly beaten to death; Dr. al-Saffi Al-Tayeh Al-Saffi, a 30-year-old medical doctor, reportedly died on 9 January 1995 under torture by security forces. It was brought to the Special Rapporteur's attention that since his arrival in mid-September 1994 from Germany where he had visited Sudanese friends and relatives, the victim had allegedly been subjected to continuous harassments by security forces. The Khartoum North hospital was reported to have issued a certificate stating a "circulatory failure" as the cause of the death, but no post-mortem examination is said to have been conducted to establish the cause of that failure.

Communications received

455. On 12 June 1995, the Government of the Sudan provided the Special Rapporteur with both a reply to the urgent appeal concerning Hashim Zeyada and Jeosip Meuo, as well as a note verbale relating to the same issue. The Government informed the Special Rapporteur that the two persons mentioned had

illegally entered the Sudan. Furthermore, they were in rebel hands, since the United Nations plane which was dispatched to Pariang to bring them back to Khartoum was diverted to the Chukudum airstrip, which is under rebel control. In a note verbale of the same date, the Government stated that an aircraft belonging to the United Nations Operation Lifeline Sudan left Lokichokio airport at the Kenyan border and landed at Pariang in south Sudan illegally without an entry visa. The aircraft escaped, leaving behind Mr. Giuseppe Meuo, who was them detained by the Sudanese authorities and moved to Khartoum where at the moment of the reply he was being interrogated by the authorities on the accusation of violating the immigration rules (12 June 1995).

Observations

456. The Special Rapporteur wishes to thank the Government of the Sudan for the replies to the urgent appeal. He deplores, however, the fact that in the reply no reference was made to the fate of Mr. Hashim Zeyada, nor of the eventual release by the authorities of the two persons mentioned above. The Special Rapporteur remains concerned about the life-threatening conditions in the civil war zone, in the south of the Sudan. Furthermore, he expresses concern about the reports he received about the use of excessive force against the demonstrators, and he calls upon the Government to investigate the allegations and to take measures to prevent the recurrence of such incidents.

## Swaziland

457. An increase in tensions between trade unions and the Government was reported, especially in July 1995, when unionized workers announced a mass strike after a new Labour Bill was drafted adding new restrictions on the freedom of association.

Allegations transmitted

458. The Special Rapporteur sent one urgent appeal to the Government of Swaziland, asking for protection for Jan Sithole, Secretary-General of the Swaziland Federation of Trade Unionists, who was reported to be receiving death threats from members of the police. It was reported that Mr. Sithole had been asked by the police in August 1994 to mediate during a strike of sugar cane plantation workers, upon which he was taken in a police car and driven around for hours during which he was threatened. In January 1995, he received telephoned death threats and in June 1995, after returning from attending an International Labour Organization (ILO) conference in Geneva, the Chief Immigration Officer ordered him to surrender his passport. Subsequently, Mr. Sithole was threatened with deportation to Mozambique because it was alleged that he was a Mozambican (17 July 1995).

Observations

459. The Special Rapporteur regrets the fact that at the time the present report was finalized, no reply had been received from the Government. He is

concerned about reports he received with regard to the limitation of the freedom of opinion and expression and association and calls upon the Government to investigate the allegations.

## Syrian Arab Republic

460. The Special Rapporteur was informed of numerous allegation of violations of the right to life in the Syrian Arab Republic which resulted from torture and ill-treatment during custody or detention.

### Allegations transmitted

461. The Special Rapporteur transmitted to the Government the following cases of death in custody: Rif'at Bin Ahmad Rajab, who reportedly died in Adra civil prison in 1992 as a result of a heart disease which was aggravated by torture and his alleged refusal to receive medical treatment; Salah Jadid, a former chief of staff of the army who reportedly died on 19 August 1993 in al-Mezze prison where he had allegedly been detained without charge or trial for almost 23 years.

### Communications received

462. The Government of the Syrian Arab Republic informed the Special Rapporteur that Salah Jadid had been placed under house arrest. The Government also pointed out that while under house arrest, Salah Jadid "was provided with all the health care and social welfare that he needed". The Government affirms that Salah Jadid died of septic shock, accompanied by circulatory collapse and kidney failure (19 October 1995).

## Tajikistan

463. The Special rapporteur sent the following cases of death in custody to the Government: Islambek Dashtov, member of the Pamiri ethnic group, who reportedly died while in detention two days after having been detained by security forces during a raid in the Yujhni district of Dushanbe; Eshoni Said Ashraf Abdullohadov, a prominent religious figure who allegedly died on 21 September 1994 while in detention.

### Observations

464. The Special Rapporteur regrets that no replies have been received from the Government, either to allegations transmitted or concerning his request to visit to the country made in 1993.

## Thailand

465. The Special Papporteur transmitted to the Government of Thailand a communication concerning Soe Win, aged 24, believed to be a Myanmar national, who was reportedly beaten to death on 1 June 1994 by a Thai policeman in Kyan Daw, near Thom Papum.

466. By communication dated 8 November 1995, the Government informed the Special Rapporteur that investigations were under way regarding the death of Soe Win.

## Togo

### Allegations transmitted

467. The Special Rapporteur sent to the Government of Togo the case of Atcha Kpakpo Sabin, Director of the Agence pour la Navigation Aérienne en Afrique, reportedly attacked on 25 September 1994 in Lomé by eight unidentified persons, seven of whom were wearing military uniforms. After threatening him and his wife and searching his house, they reportedly asked him to follow them. Upon his refusal, he was reportedly killed.

### Communication received

468. The Special Rapporteur received a letter from the Government of Togo informing him about an amnesty law which was adopted by the National Assembly on 15 December 1994 with regard to crimes of murder and a series of other crimes that occurred during aggressions on 25 March 1993 and 5 and 6 January 1994, and all politically motivated offences committed before 15 December 1995. Persons arrested on the basis of political or politically motivated offences would be liberated and judicial proceedings on the same basis would be suspended (16 February 1995).

### Follow-up

469. The Special Rapporteur also sent a follow-up letter to the Government of Togo. He referred to a letter which was sent to him by the Government of Togo on 16 February 1995 concerning the amnesty law which was adopted by the National Assembly with the aim of achieving national reconciliation. The Special Rapporteur reminded the Government of the danger of such a law favouring impunity, which would be contrary to international instruments. The Special Rapporteur furthermore emphasized that for national reconciliation to take place it would be essential to know the truth about all the human rights violations that have occurred, and that any amnesty law should include the right to reparation and compensation of the victims. Furthermore, it would be in the interest of prevention of the recurrence of similar crimes if the truth about those crimes were known. The Special Rapporteur furthermore requested the Government of Togo to provide him with any comments or additional information concerning the amnesty laws.

### Observations

470. The Special Rapporteur wishes to thank the Government of Togo for the information provided concerning the amnesty laws. He regrets that no additional information, as requested, has been received nor a reply to the case that was sent in 1995. He is concerned about the amnesty law as set out in his letter to the Government; in particular he fears that such a law might favour impunity in the country. He calls upon the Government to take into consideration the rights of victims, especially the right to compensation and

the right to know the truth. The Special Rapporteur, moreover, reiterates that reconciliation will not be possible unless the truth is known and justice is done.

Trinidad and Tobago

471. By letter dated 18 January 1995, the Government of Trinidad and Tobago provided a reply in the case of Glen Ashby. On 15 August 1994, the Special Rapporteur had sent a letter to the authorities in Trinidad and Tobago, expressing concern at his execution, reportedly while two proceedings were said to be pending: on 6 July 1994, Glen Ashby had made a complaint to the United Nations Human Rights Committee and on 13 July 1994, he had brought a constitutional motion in Trinidad.

472. According to the Government, Glen Ashby had been convicted and sentenced to death by the High Court on 20 July 1989. A notice of appeal was filed on the same day but was dismissed by the Court of Appeal on 8 December 1993. He subsequently filed an application for special leave to appeal to the Judicial Committee of the Privy Council which was dismissed on 6 July 1994. Upon the dismissal, the Advisory Committee on the Power of Pardon considered Mr. Ashby's case but did not recommend that he be pardoned. The President issued a warrant of execution which was read to Mr. Ashby on 12 July 1994 for execution on 14 July. The Government further states that Mr. Ashby filed a constitutional motion in the High Court on 13 July 1994 challenging the constitutionality of his execution. Previously, after the dismissal of application by the Privy Council on 6 July 1994, solicitors had lodged a petition with the Human Rights Committee. According to the Government of Trinidad and Tobago, authorities were not aware at the time of Mr. Ashby's execution that a request had been made by the Special Rapporteur of the Human Rights Committee under rule 86 of the Committee's rules of procedure; therefore, no steps could have been taken to give effect to the request.

473. The Government asserted that his execution was carried out pursuant to a valid sentence of a competent court. He had exhausted all criminal appeals and had his case considered by the Advisory Committee on the Power of Pardon. At the time of his execution there was not in force any judicial or presidential order for stay of the execution, nor was there any undertaking by the State not to execute him.

474. The source pointed out, however, inter alia, that the reply of the Government did not address the issue of whether or not Mr. Ashby was entitled to a stay of execution while his international petition was still pending.

Observations

475. The Special Rapporteur thanks the Government of Trinidad and Tobago for the exhaustive reply provided in the case of Glen Ashby. He notes, however, that the Government has not addressed the fact that the execution of Glen Ashby took place 4 years and 11 months after he was sentenced to death. In this context, the Special Rapporteur wishes to reiterate his concern (E/CN.4/1995/61, para. 307) that the fact that the 1993 judgement of the Privy Council, which held that awaiting execution of a death sentence for five years

constituted in itself cruel and inhuman punishment, could encourage Governments to speed up the execution of death penalties to the detriment of the right of the defendant to a fair trial.

Turkey

476. During 1995, the Special Rapporteur continued to receive information about the human rights situation in Turkey, particularly in the south-east provinces where a state of emergency is currently in effect. According to reports received, violations of the right to life persist mainly in the context of confrontations between the Kurdish Workers Party (PKK) guerrillas and the Turkish security forces, death squads, village guards and counter-guerrillas.

477. It has been reported that attacks by Turkish armed forces have been carried out, inter alia against those working for Kurdish human rights organizations, in the face of hostilities. Reports have also been received about the continuing harassment of journalists of pro-Kurdish newspapers and human rights lawyers as well as members of Kurdish political parties. Article 8 of the Turkish Anti-Terror Law has reportedly been invoked to charge journalists and Kurdish writers, in an attempt to limit and penalize the non-violent expression of political opinions. Information regarding amendments made by the Turkish Grand National Assembly on 27 October 1995 to article 8 of the Anti-Terror Law was transmitted to the Special Rapporteur by the Turkish Government (3 November 1995). The Special Rapporteur noted that the enactment in question has been amended.

478. On 4 April 1995, the Special Representative of the Secretary-General on internally displaced persons, the Chairman of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Chairman of the Working Group on Enforced or Involuntary Disappearances sent a joint urgent appeal to the Government of Turkey. They expressed concern about reports received, according to which Turkish and Iraqi civilians of Kurdish ethnic origin had died as a result of the armed conflict which began after Turkish troops entered the territory of northern Iraq on 20 March 1995. Fears were expressed that civilians were at risk of, inter alia, extrajudicial executions. The experts called upon the Government to take all necessary measures to ensure that the right to life and physical integrity of civilians were protected. In addition, they requested the Government to inform them of steps taken to guarantee the protection of these rights, in accordance with international human rights and humanitarian law.

479. In a note verbale dated 6 April 1995, the Permanent Mission of Turkey to the United Nations stated that the operation conducted by the Turkish armed forces in northern Iraq did not fall within the purview of the signatories of the joint urgent appeal. Reference was made to the fact that United Nations human rights mechanisms created under resolutions which made recommendations were not intended "to encroach upon the field of international humanitarian law, unless specifically provided otherwise by that law".

480. On 10 May 1995, the signatories of the aforementioned joint urgent appeal addressed a letter to the Government in which they expressed their

disagreement with the views of the Government contained in the note verbale referred to above. They further stated that they considered themselves competent to monitor the implementation of international human rights law within the framework of their respective mandates, irrespective of whether those rights were codified in international human rights law or humanitarian law. In addition, they reiterated the concerns previously expressed, and requested the Government again to respond to the allegations.

481. By note verbale dated 16 June 1995, the Government of Turkey provided a reply to the joint communication mentioned above, and stated that the articles and provisions mentioned in the letter do not confer on special rapporteurs and working groups of the United Nations human rights system any duty to oversee the performance of the States parties to an armed conflict. The Government claimed that there seems to exist a confusion in the sphere of application of human rights and humanitarian law by special rapporteurs and working groups.

Allegations sent

482. The Special Rapporteur sent 56 cases of alleged extrajudicial, summary or arbitrary executions of the following persons:

(a) Reportedly found dead after having been arrested by police officers or members of the security forces: Savas Buldan, Adnan Yildirim and Haci Karay; Aslan Yildiz and Muslum Kavut found dead in Karaoglan district of Ovack; Bayran and Hamit Bal; Mehmet Sen, member of the Democracy Party (DEP); Hasan Ocak; Fars Yildiz; Sino Omer Omer and Abdulla Ibrahim; M. Emin, M. Haci, Mehmet Nezir Gorel, Mehmet Kaya, Mehmet Ozkan, A. Selam Demir and Serif Ekin; Felemez Argic, shot dead after being taken into custody, reportedly for his refusal to become a village guard;

(b) Killed during police raids: Fuat Rdogan, lawyer, Elmas Yalcin and Ismet Erdogan, in Istanbul; Refik Horoz, Reyhan Havva Ipek, Husseyin Deniz and Selim Yesilova, students, at their house in Diyarbakir;

(c) Killed by Turkish squads and counter-guerrillas: Cunyet Aras, aged 3, Ferdi Aras, aged 5, Ergun Aras, aged 8, Pinar Aras, aged 12, and Birgul Aras (their mother), reportedly killed by a Turkish death squad in Ozdemir village; Halil Kaya, killed during a shooting by counter-guerrillas in a street of Gazi Mahallesi;

(d) Killed by village guards: Hasan Kaymaz, reportedly killed by village guards on Bafo village during a raid; Yusuf Elik, killed in Savura village;

(e) Killed by chemical weapons: 19 persons, names unknown, reportedly killed in an encounter with the Turkish Security Forces in Nurhak Mountains, south-east Turkey, in July 1993;

(f) Death in custody: Ramazan Ozuak, detainee at the Diyarbakir E-type prison, and Yacin Kilic.

483. In addition, the Special Rapporteur transmitted to the Government allegations he had received concerning the killings by police officers of: Medet Serhat, a Kurdish lawyer; Faik Candan, another Kurdish lawyer; Rifat Ozgungur, reportedly shot for not obeying a warning by the police to stop; Admet Ozturk, journalist; Ersin Yildiz, journalist of Ozgur Ulke, reportedly killed in the offices of a newspaper in Istanbul; Mumtaz Kacar and Mehmet Sait Timurtas; Muhsin Melik, human rights activist; Leyla Orhan and Asim Aydemir; Delear Abdulla Qadir, Rizgar Salih Hussein, Salar Osman Rashid, Hussein Ismael Hussein, Vaktujar Abdul Karim Salih, Feridoun Farhad Mustafa, Asou Othman Muhammed and Kirmanj Haza Abdulla, reportedly killed while trying to cross the Turkish border from the Zakho area.

Communications received

484. The Special Rapporteur received replies from the Turkish Government regarding some cases which had been sent in 1994 and 1995. The Government informed the Special Rapporteur that investigations undertaken to identify the assailants who killed Mehmet Salih, Salih Satan, Sefer Cerf, Rebih Cabuk and Ahmet Dizman have produced no concrete results as yet. In regard to the cases of Sehmuz Özgün; Masallah Kasaphan, Hakki Kuru, Abdurrahman Yakut and Samet Yaman the Government asserted that these persons had not been subjected to threats by the police (3 January 1995).

485. The Government informed the Special Rapporteur that allegations were inaccurate and that inquiries were being conducted in the following cases: Besir Baskak, Abdullah Guler, Sait Sen, Ahmet Guler and Ahmet Cetin. No complaints had been made on the case of Huseyin Ergin and no inquiries were being conducted. Regarding Yeter Guler, inquiries were under way. With respect to the death of Mehmet Zeki Aksoy, the Turkish Government informed the Special Rapporteur that she had been killed by Adulkadir Aydin, alias "Reso", a member of the PKK, who was arrested and referred to the Diyarbakir State Security Court, where his trial is currently under way. The Government also mentioned that in the case of Nasir Ögüt, his wife and six children, the allegations were fallacious. No autopsy could be conducted since the bodies were completely burnt as a result of a fire (10 January 1995).

486. On 27 January 1995 a reply was provided to the urgent appeal sent in October 1994 on behalf of Nebahat Akkoc. The Government stated that she was apprehended together with 16 other members of PKK and later released following an initial interrogation; she was not subjected to torture or ill-treatment.

487. Concerning the cases of Sehmuz Celik and Mahmut Cakmak, the Special Rapporteur was informed that a public case was initiated against Captain Izzet Goral and his company of the gendarmerie forces in the Diyarbakir High Criminal Court. In addition, the Government stated that an inquiry was under way in the cases of Mehmet Emin Bingol, Yakup Tekin, Mehmet Acar, and Ali Can Oner (22 March 1995).

488. During the period under review, the Turkish Government provided information regarding the concept of terrorism and forwarded to the Special Rapporteur a non-exhaustive compilation of attacks perpetrated in Turkey

during 1994 by the PKK. The Government also transmitted to the Special Rapporteur a booklet entitled "Realities of Turkey for the West" and a copy of the speech delivered by the Prime Minister of Turkey at the Parliamentary Assembly of the European Union (5 September and 29 June 1995).

489. By communication dated 7 April 1995, the Government of Turkey stated that paragraphs 29 and 315 of the Special Rapporteur's previous report to the Commission on Human Rights (E/CN.4/1995/61) would appear to suggest that the Government chose to avoid giving a firm answer to his request. While considering this to be a misunderstanding, the Government stated that a visit by the Special Rapporteur to Turkey would be facilitated provided that the Special Rapporteur agreed to examine allegations relating to violations of the right to life committed by terrorists (7 April 1995).

Follow-up

490. By letter dated 22 August 1995, the Special Rapporteur requested further clarification regarding several cases. The Special Rapporteur made specific reference to the case of Mehmet Zeki Aksoy after the source had disagreed with the reply given by the Government, which declared that Mehmet Zeki Aksoy had been killed by Abdulkadir Aydin, a member of the PKK. Additional information was also requested in the case of Nebahat Akkoc. In this case, the source reiterated that she had been tortured and interrogated about her applications to the European Commission on Human Rights.

491. In the same letter the Special Rapporteur expressed concern at the very high number of allegations of extrajudicial, summary or arbitrary executions. He stated that he encountered considerable difficulties in drawing any conclusions as to the merits of the allegations, since they continue to differ substantially from the information provided by the Turkish authorities. The Special Rapporteur thanks the Government for its letter of 7 April 1995 regarding a possible mission to Turkey, while reiterating that the interpretation and scope of the mandate is the prerogative of the Special Rapporteur.

Observations

492. The Special Rapporteur thanks the Government of Turkey for the replies provided but is concerned about the lack of effective cooperation, as no progress has been made since 1992 regarding a requested visit to Turkey although in principle it has been accepted by the Government.

493. Moreover, he continues to be extremely concerned about violations of the right to life in the south-eastern provinces of Turkey. Information in this regard, which has been received by the Special Rapporteur on a continuous basis during the past years, suggests the existence of a pattern of violations of the right to life, particularly against persons of Kurdish ethnic origin. The Special Rapporteur recognizes the difficulties faced by the Government in controlling violent acts committed by members of the PKK and is aware that attacks on the right to life are also being committed by the PKK. Despite the difficult circumstances, the Special Rapporteur wishes to reiterate that the right to life is absolute and must be respected even under exceptional circumstances. In this respect, attempts of the Government of Turkey to

challenge the mandate of the Special Rapporteur in regard to civilian victims of armed conflicts is particularly disturbing, and indicates a lack of willingness on the part of the Government to respect the lives of civilians caught in these conflicts.

494. Due to the large number of allegations which continue to be systematically received, and the contradictory versions of the sources of the information and the Government, the Special Rapporteur finds that it is virtually impossible for him to determine which of the versions corresponds to reality. For these reasons, the Special Rapporteur reiterates his interest in visiting Turkey so as to be in a position to assess the situation on the basis of first-hand information. The Special Rapporteur believes that a visit could provide an opportunity to formulate, as appropriate, recommendations for improvement of the right to life.

## Ukraine

495. With regard to the application of capital punishment in Ukraine, the Special Rapporteur was informed that, although the country has taken steps towards the abolition of the death penalty since its independence in 1991, it has an execution rate that is among the highest in the world. Statistics from the Ministry of Justice have reportedly shown that 143 people had been sentenced to death in 1994, and 60 were executed. The application of the death penalty is reportedly surrounded by secrecy. Relatives of those on death row in Ukraine are not informed in advance of the date of the execution, and are not entitled to the body of the executed prisoner which is buried in an unmarked grave in a location not revealed to them.

### Allegations transmitted

496. The Special Rapporteur transmitted to the Government of Ukraine the case of Nicolaj Szpakowicz, of Polish nationality, who reportedly died in custody after alleged ill-treatment by policemen on 17 September 1994, in Pochayev, Ternopil region. The Special Rapporteur was informed that one of the police officers was charged in respect of this case for intentionally inflicting serious body injuries.

### Observations

497. The Special Rapporteur regrets that at the time the present report was finalized, no reply had been received from the Government. He calls upon the Government to investigate the allegations.

## United Arab Emirates

498. The Special Rapporteur sent an urgent appeal to the Government of the United Arab Emirates concerning the reported death sentences imposed on a 16-year-old Filipino maid, Sara Balabagan. According to the information received by the Special Rapporteur, the girl had committed a murder at the age of 15, allegedly in self-defence, after her employer had made sexual advances to her. Reportedly, her official papers had been falsified to allow her to work in the United Arab Emirates. The Special Rapporteur reminded the

Government of its obligations under international law, stating that it was contrary to those instruments to impose the death sentence on a minor, and requested the Government to refrain from execution (21 September 1995).

Observations

499. The Special Rapporteur regrets that at the time the present report was finalized, no reply had been received from the Government. He was informed by sources, however, that the death sentence imposed on Sarah Balabagan was reversed by the Appeal Court. The Special Rapporteur is gravely concerned about the fact that under the national legislation of the United Arab Emirates minors can be subjected to capital punishment. The Special Rapporteur therefore calls upon the Government of the United Arab Emirates to revise its legislation in this regard, and to bring it into line with international standards concerning the rights of the child.

United Kingdom of Great Britain and Northern Ireland

500. During 1995, the Special Rapporteur was informed that since the declaration of a cessation of the military operations, as of 1 September 1994, by the Irish Republican Army (IRA), killings have virtually stopped. Serious allegations, however, were received concerning the failure of the Government to conduct prompt, thorough and impartial inquiries into the killings that have occurred during the conflict between 1969 and 1994, as required by international standards such as those contained in the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. It was brought to the Special Rapporteur's attention that very few prosecutions have taken place, allegedly resulting in only six convictions as of August 1995, thus making it impossible for the families of the deceased to discover the full circumstances of any disputed killing. Reports furthermore indicated that once a decision not to prosecute is made, the only procedure left to examine publicly the circumstances of the death is the coroner's inquest, which in Northern Ireland is reportedly much more restricted than elsewhere in the United Kingdom. According to the information received, a High Court judicial review in 1995 confirmed that such a procedure could not be seen as a procedure to examine the full circumstances of a killing. Other serious allegations were received concerning collusion between members of the security forces and Loyalist paramilitary groups, and including aiding and abetting of Loyalist attacks by intelligence officers; security information on Republican suspects regularly handed over by members of the security forces to Loyalist groups; and the participation of members of the security forces in Loyalist attacks. An inquiry into the extent of the collusion has reportedly been consistently refused by the Government of the United Kingdom.

Allegations transmitted

501. In 1995, the Special Rapporteur sent the following three cases to the Government of the United Kingdom, all of them being cases of deaths in police custody in London: Brian Douglas, who reportedly died in London on 3 May 1995, after being arrested five days previously, during which time he was reportedly beaten with batons; Shiji Lapite, a Nigerian citizen, reportedly died in police custody in London on 16 December 1994; Joy Gardner,

a Jamaican immigrant, reportedly died in police custody in London on 28 July 1993, after being arrested by police and immigration authorities for deportation from the United Kingdom to Jamaica. According to the information received, Mrs. Gardner had resisted arrest violently after which she was restrained with handcuffs, leather belts and adhesive bandage applied around her head with a gag in her mouth, following which she allegedly fell into a coma and was pronounced dead four days later. It was brought to the Special Rapporteur's attention that three police officers reportedly stood trial for manslaughter, but that they were allegedly acquitted on 14 June 1994 after a police-led investigation.

Communications received

502. The Government of the United Kingdom provided a reply to the three cases that were sent in 1995. With regard to the death of Shiji (Oluwashijimoni) Lapite, the Government informed the Special Rapporteur that no death certificate can be issued until after the inquest, which is due to begin on 22 January 1996. No formal complaint had yet been made. Whether any disciplinary measures would be taken against the police officers involved depended on the outcome of the inquest. Concerning the death of Mrs. Joy Angelica Gardner, the Government informed the Special Rapporteur that no formal complaint had been made. Three police officers were prosecuted for manslaughter and acquitted on 14 June 1995. This decision is definitive. The Government furthermore stated that no claim for compensation had been made and liability has yet to be determined. With regard to the death of Brian Douglas, the Government stated that no formal complaint was made, but civil proceedings had started. No death certificate had been issued, as an inquest had yet to be completed. An inquest was opened on 11 May 1995 and adjourned sine die. An internal investigation was carried out, the results of which were sent to the Crown Prosecution Service for consideration of possible criminal offences. No criminal and disciplinary procedures were under way (16 November 1995).

Observations

503. The Special Rapporteur wishes to thank the Government for the replies provided, and the willingness shown to cooperate with his mandate. In 1995, he also received a number of replies from the sources, after transmitting in 1994 the Government's replies to them. He regrets that owing to the limited human resources available, it has been impossible to analyse the cases. The Special Rapporteur, however, undertakes to analyse the information at a later stage. The Special Rapporteur is particularly concerned about the fact that foreigners seem to be disproportionately involved in the allegations of extrajudicial, summary or arbitrary executions.

United Republic of Tanzania

504. The Special Rapporteur, in 1995, received reports about massive numbers of refugees from Burundi and Rwanda, seeking asylum in the United Republic of Tanzania. This has put a heavy burden on the Tanzanian population, as a consequence of which Tanzanian authorities were allegedly compelled to close the borders with Burundi. According to the authorities, armed incursions by Burundi soldiers into Tanzania were taking place, purportedly in pursuit of

armed Burundi militia. This led to difficulties at the border with Burundi where refugees were alleged to be ill-treated and sometimes killed.

Allegations transmitted

505. The Special Rapporteur sent one urgent appeal to the Government of the United Republic of Tanzania jointly with the Special Rapporteur on the question of torture, expressing fear for the lives of refugees originating from Burundi and Rwanda. Information had been received by both Special Rapporteurs about ill-treatment on several occasions by Tanzanian border patrols. This reportedly forced some refugees to return to Burundi. Upon their arrival in Burundi they were allegedly attacked by Burundi soldiers armed with knives and machetes, and between three and six refugees were killed. Allegations were also received about Tanzanian soldiers who in June 1995 reportedly fired upon a group of 250 Rwandese refugees trying to cross the border into Tanzania. The Special Rapporteurs jointly addressed two simultaneous urgent appeals to the Governments of Burundi and the United Republic of Tanzania, urging them to respect the Convention relating to the Status of Refugees and urging them to take measures to protect the life and physical integrity of the refugees in the border region and to apply the principle of non-refoulement (6 July 1995).

Observations

506. The Special Rapporteur regrets that no reply has been received from the Government. The Special Rapporteur expresses his deep concern about the situation in the border region, particularly with regard to the refugees. He recognizes the burden which is put on Tanzanian society by receiving massive flows of refugees from Rwanda and Burundi, but he also wishes to remind the Government of its obligation under several international instruments relating to the situation of refugees. Furthermore, the right to seek asylum, as recognized in international instruments, must be seen in the context of the right to enjoy the right to life in those situations where the lives of refugees are in imminent danger. In view of the persistent gravity of the situation in the region, the Special Rapporteur once more wishes to launch an appeal to both the Government of the United Republic of Tanzania, as well as the international community, to find a durable solution to the crisis and to respond to it in a way which takes full account of the hundreds of thousands of lives at risk.

## United States of America

507. The Special Rapporteur continued to receive numerous reports indicating that the practice of capital punishment in the United States of America does not conform to a number of safeguards and guarantees contained in international instruments relating to the rights of those facing the death penalty. In many of the cases, it was alleged that defendants did not benefit fully from their right to an adequate defence. A number of cases concerned death sentences relating to offences committed by defendants who were said to be mentally retarded.

508. The Special Rapporteur, in comparison with recent years, sent an increased number of urgent appeals to the Government of the

United States of America, concerning death sentences imposed in the following states: Alabama (3), Arizona (1), Arkansas (1), Florida (2), Georgia (2), Illinois (2), Indiana (1), Missouri (5), North Carolina (1), Oklahoma (2), Pennsylvania (2), Texas (4) and Virginia (1).

509. In 1995, the Special Rapporteur also received reports about the reinstatement of the death penalty in the state of New York. It had been brought to his attention that on 7 March 1995, the Governor of New York signed a death penalty bill into law, which came into force on 1 September 1995. The law reportedly provides for the death penalty for several categories of murder including intentional murder committed during violent crimes, serial and "contract" killings, the murder of judges, police officers and prison guards who are on duty, and murders involving torture.

Allegations transmitted

510. The Special Rapporteur sent 27 urgent appeals to the Government of the United States in which he urged the authorities to ensure full respect for the rights of 26 persons facing the death penalty:

(a) The following persons were said to have been sentenced to death despite their serious mental retardation: Mario Márquez (5 January 1995); Roosevelt Pollard, whose attorneys failed to carry out an adequate investigation into his mental state and unstable background (5 January 1995); Maurice Andrews, whose mental retardation was not referred to by his attorney during his trial (2 March 1995); Willie Clisby (25 April 1995); Varnall Weeks (2 May 1995); Girvies Davis (4 May 1995); Larry Lonchar (21 June 1995); Luis Mata, who was reportedly defended by attorneys who were inexperienced with capital cases during the appeals procedures (7 July 1995); Robert Brecheen (31 July 1995); Barry Fairchild, who was reported to be beaten by the police, and bitten by a police dog during police custody and concerning whose conviction doubts have reportedly been raised about the evidence upon which the conviction was based (14 August 1995); Frederic Jermyn (6 September 1995); Anthony Joe Larette, who was also reported to have been represented by an unexperienced lawyer (10 November 1995);

(b) The following persons were said to have been sentenced to death after trial in which their right to an adequate defence had allegedly not been fully ensured: Alan Jeffrey Bannister (2 December 1994); Kermit Smith (6 January 1995); Calvin Burdine (20 January 1995); Robert T. Sidebottom (7 November 1995);

(c) The following persons were said to have been sentenced to death despite strong indications casting doubt on their guilt: Gregory Resnover (2 December 1994); Jesse Jacobs (22 December 1994); Nicholas Ingram (30 March 1995); Larry Griffin (24 May 1995); Joseph Spaziano (9 June 1995); Dennis Waldon Stockton (15 September 1995);

(d) The following persons were said to be sentenced to death after a trial which was allegedly marked by racial bias: Hernando Williams (14 February 1995); Mumia Abu-Jamal, who was also reportedly defended by an allegedly inadequate counsel who was unwilling to assist in the case and who was hindered in his work due to lack of time and financial restraints. The

evidence in his case was allegedly based on contradictory statements of unreliable witnesses (19 July 1995); Thomas Joe Miller-El, whose health was allegedly very bad during the trial as he was reportedly suffering from the effects of being shot by police during his arrest. He was furthermore reported to be drifting in and out of consciousness during the trial due to the fact that his medication was stopped at the judge's request (2 October 1995);

(e) Thomas Grasso was said to have been sentenced to death without resorting to his right to lodge any legal or clemency appeals, and was reported to have consistently expressed the will to be executed (28 February 1995);

(f) Raleigh Porter was reportedly sentenced to death after the presiding judge overruled a unanimous recommendation of the jury to life imprisonment (14 March 1995).

Communications received

511. The Government of the United States of America provided the Special Rapporteur with a reply to the urgent appeal sent to the Government on 2 December 1994, concerning the case of the execution of Gregory Resnover. The Government informed the Special Rapporteur that under United States law, a defendant may be sentenced to death in accordance with strict procedural safeguards, designed to ensure that his or her rights are not violated. In the reply, the Government stated that Mr. Resnover had lied about his involvement in the shooting in order to protect his brother, and that he had never recanted his statement delivered under oath, that he fired his weapon at police officers, and that he had been able to fully exercise his right to appeal in both state and federal courts. The Government furthermore provided the Special Rapporteur with a description of the legal safeguards provided to defendants in the United States in criminal cases, and in particular those specific to death penalty cases (6 June 1995).

512. The Government also provided a reply briefly referring to the 10 most recent inquiries sent by the Special Rapporteur since June 1995, providing the Special Rapporteur with a short summary of general information on United States standards and practices in capital punishment cases. The Government informed the Special Rapporteur that his request would be sent to the Attorneys-General of the states concerned, and recommended that the state authorities provide a more detailed response.

Follow-up

513. As in 1994, the Special Rapporteur sent a letter to the Government expressing his appreciation for the detailed information provided by the authorities with regard to legal safeguards for those facing the death penalty. The Special Rapporteur, however, reiterated his preoccupation as expressed in earlier communications about a number of questions relating to the legislation and practice concerning capital punishment in the United States of America. The Special Rapporteur reminded the Government of the United States of the far-reaching limitations and restrictions imposed by international law on the use of the death penalty. In this context he

referred particularly to the comments and recommendations of the Human Rights Committee, which were made upon consideration of the first periodic report of the United States of America, under article 40 of the International Covenant on Civil and Political Rights (CCPR/C/79/Add.50). The Special Rapporteur furthermore subscribed to recommendations, relating to the right to life made by the Committee that the State party should review its recommendations, declarations and understandings with respect to the Covenant with a view to withdrawing them and that the State party should revise the federal and state legislation with a view to restricting the number of offences carrying the death penalty to the most serious crimes. The Special Rapporteur was very concerned about the reinstatement of the death penalty in New York. The Special Rapporteur was also deeply concerned about reports alleging that in spite of the provision contained in the bill relating to the exemption of pregnant women and mentally incompetent and mentally retarded persons from execution, according to the new bill, mentally-ill persons can be executed if they commit a murder while in prison. The follow-up letter also contained a list of urgent appeals that were sent to the Government of the United States since 25 November 1994, and to which as of that date no reply had been received.

Observations

514. The Special Rapporteur thanks the Government for the replies provided, including the information concerning the application of the death penalty in the United States. He hopes to receive a substantive reply to each of the individual cases in due course. The Special Rapporteur welcomes the fact that in 1995 he did not receive reports about death sentences imposed for offences committed when the defendants were below 18 years of age. He remains deeply concerned, however, that in spite of the guarantees laid down in federal and state legislation, many of the death sentences continue to be handed down after trials which fall short of international guarantees for a fair trial. Particularly disturbing are reports concerning the application of capital punishment on mentally retarded or mentally-ill persons. The Special Rapporteur is also deeply concerned about the number of reports indicating that defendants did not have adequate defence during the trials and appeals procedures. The Special Rapporteur finds this a very grave violation of the right to a fair trial, particularly in capital punishment cases.

515. Moreover, the Special Rapporteur is deeply concerned about reports he received in 1995 concerning cases which were allegedly blatantly tainted by racial bias on the part of the judges or the prosecution, which reportedly has resulted in an arbitrary removal of members of the jury in some cases. Another issue of concern to the Special Rapporteur is that in some states an appeal procedure after conviction in capital cases is not mandatory. In practice, this is a disadvantage for those without adequate legal counsel, which in practice means poorer people who are not familiar with the procedures. The Special Rapporteur therefore urges the Government to take legislative measures in order to ensure that appeals in all capital cases are mandatory.

516. Finally, the Special Rapporteur finds the reports about the reintroduction of the death penalty in New York most disturbing. He reiterates the desirability of the abolition of the death penalty, repeatedly

expressed by the Human Rights Committee, in particular upon consideration of the first periodic report of the United States of America.

517. The Special Rapporteur pointed out in his letter to the authorities that his concerns expressed in 1993 and 1994 persisted, and inquired whether the Government could consider inviting him to carry out a visit to the United States of America to discuss the issue of capital punishment with authorities, both at the federal and at the state level, as well as with interested organizations and individuals. At the time the present report was finalized no reply to this request had been received from the Government.

Uruguay

518. By note verbale dated 5 April 1995, the Government provided information on the cases of José Roberto Facal and Fernando Alvaro Morroni, transmitted to the Government by the Special Rapporteur on 1994.

519. According to the Government, allegations regarding the case of José Roberto Facal are factually incorrect since he was a victim of a common crime in which no State officials were involved. Criminal charges have been brought against the alleged murderer. Concerning the death of Fernando Morroni, the Government confirms that the victim was killed during a demonstration in Montevideo in August 1994. The Government informed the Special Rapporteur that investigations are under way and judicial proceedings have been initiated. Further details on the case will be provided as soon as they are available.

520. Further information received from the source refers, however, to the fact that although judicial proceedings have been initiated against several police officers for some of the serious offences committed (lesiones graves y gravísimas) during the August 1994 incidents, no proceedings have been initiated against any police officers regarding the killing of José Roberto Facal.

Uzbekistan

521. The Special Rapporteur sent one urgent appeal to the Government of Uzbekistan, concerning Shukhrat Yusunov, who was reportedly facing imminent execution after a trial in which essential evidence was allegedly not taken into consideration. The Special Rapporteur furthermore brought to the Government's attention information he had received with regard to the alarming rate at which executions are reported to be carried out in Uzbekistan, which might be related to the current prison situation, since many prisons are reportedly overcrowded. In addition, it was alleged that guarantees for a fair trial were frequently ignored (10 October 1995).

Observations

522. The Special Rapporteur regrets the fact that at the time the present report was finalized, no reply had been received from the Government. He therefore calls upon the Government of Uzbekistan to investigate the allegations.

## Venezuela

### Allegations transmitted

523. The Special Rapporteur sent one urgent appeal expressing fear for safety of prisoners in Venezuela, after receiving information that National Guard officers were being deployed in seven prisons following violent incidents (5 January 1995).

524. Another urgent appeal was sent on behalf of the following persons reportedly detained by members of the Venezuelan navy: Kevyis Wilfredo Palmera, Francisco Javier Beltran, José Alirio Danila, Luis Bracca, Luis Alberto Macualo, Cruz Antonio Martinez, Wilson Manuel Fajardo Acosta, Yonny Alberto Salazar Bona, Yunny Javier Salazar Bona, Seferino Rodríguez, Julio Aldemaro Artaona, Francisoc Ramón Hernández, José Oracio Bustamante, Neira Casilda Bona de Salazar, Allela Costes Camacho, Luis Carlos Navarro Bona, Plinio Romero Martinez, Régulo Armando Ojeda, Marcos Ramón Colmenares, Freddy Euclides Romero Flores, Luis Alberto Lara and Carlos José Vasquez. Fears for their lives arised after Juan Vicente Palmero was reportedly killed by members of the navy infantry. Allegedly, their arrest took place after eight Venezuelan soldiers were ambushed and killed by Colombian guerrillas in Puerto Ayacucho, Amazonas, between 26 February and 3 March 1995.

### Communications received

525. By letter dated 20 April 1995, the Venezuelan Government forwarded a copy of the press release issued by the Ministry of the Defence in which it is stated, inter alia, that investigations are under way.

## Yemen

### Allegations transmitted

526. The Special Rapporteur transmitted to the Government of Yemen the following cases: an unidentified man reportedly shot dead by army personnel and members of the Islah militia at a check-point in the district of Al-ma'Alla, Aden; and unidentified man, member of the Yemeni Socialist Party (YSP) Central Committee reportedly arrested at a check-point in Sana'a and subsequently taken to the headquarters of central security Al-Amn Al-Markazi, where he was said to have been killed.

### Observations

527. The Special Rapporteur wishes to express concern at these allegations and regrets the lack of response from the Government regarding cases sent in the last two years.

## Yugoslavia

528. For an analysis of the human rights situation in the former Yugoslavia, reference is made to the periodic reports submitted to the General Assembly and the Commission on Human Rights by the Special Rapporteur.

Communications from the Government

529. The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) provided the Special Rapporteur with several reports of the Federal Government's committee for the collection of data on crimes committed against humanity and international law (8 November 1995, 10 November 1995 and 24 November 1995).

530. Since the subject of these reports falls within the competence of the Special Rapporteur on torture as well as the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, the information has been passed on to them.

Zaire

531. During the period under review, the Special Rapporteur continued to receive allegations of violations of the right to life in Zaire. In an effort to avoid duplication of actions, most of the information was transmitted to the Special Rapporteur on Zaire, who took action on the cases and transmitted to the Government 23 alleged cases of extrajudicial, summary or arbitrary executions.

532. According to the information received, some violations of the right to life have occurred as a result of excessive use of force in demonstrations. The Special Rapporteur received disturbing reports concerning the killing of 10 persons during a demonstration on 29 July 1995, organized by the Parti lumumbiste unifie, (PALU) to protest against the prolongation of the transitional period. Reportedly, the demonstration was suppressed by force by soldiers belonging to Military Action and Information Service (SARM) and the Garde civile. The Special Rapporteur was also informed about violations of the right to life which have taken place in the context of looting committed by soldiers, who are reportedly not being paid and find stealing an easy way of obtaining money. In most of the cases those allegedly responsible for the killings were members of the Garde civile, the Brigade spéciale de recherche et surveillance (BSRS), the National Intelligence and Protection Service (SNIP), SARM and the Zairian Armed Forces (FAZ).

533. The Special Rapporteur was also informed of the excessive use of force used by members of the Zairian Contingent while trying forcibly to expel from its territory Hutu refugees in August 1994. No casualties were recorded.

534. For an in-depth analysis of the human rights situation in Zaire, the Special Rapporteur refers to the report of the Special Rapporteur on the situation of human rights in Zaire (E/CN.4/1995/66).

Observations

535. The Special Rapporteur is concerned at the absence of the rule of law in Zaire at a time of democratic transition, and encourages the Government to take all necessary steps to ensure that elections will take place at the end of the new transitional period.

536. He expresses deep concern about the situation of Rwandan and Burundian refugees in Zaire. He recognizes the burden which their arrival has created for this region of Zaire, but wishes to remind the Government of its obligations under the 1951 Convention relating to the Status of Refugees, which Zaire has ratified. He wishes to call on the authorities to refrain from using force to forcibly repatriate the refugees to their countries. Furthermore, he emphasizes that the right to seek asylum is a prerequisite of the protection of the right to life, in situations in which the lives of refugees are in imminent danger in their own country.

### C. Other

#### Palestinian Authority

537. The Special Rapporteur received information about the creation of a new military tribunal to combat violent opposition to the Middle East peace process. Reportedly, human rights organizations have requested the Palestinian authorities to dismantle the new military tribunal, which is said to have secretly tried suspected Islamic militants. According to information received, defendants tried before such courts have no right to a proper defence or to a fair and public trial.

#### Allegations transmitted

538. On 20 September 1995, the Special Rapporteur sent an urgent appeal to the Permanent Observer Mission of Palestine to the United Nations, requesting the Palestinian authorities to adopt all necessary measures to protect the life and physical integrity of Bassem Eid, a researcher at B'Tselem, a human rights organization. Reportedly, he had received threats after B'Tselem had published a report detailing activities of the "Palestinian Preventive Security Service" (PSS).

539. On 13 October 1995, the Special Rapporteur transmitted the case of Muhammad Ahmad Muhammad Hussein Al-Jundi, reportedly killed on April 1995 after having been arrested by Palestinian police and detained in the Gaza central prison on suspicion of being involved in the killing of six Fatah members in Jabalyia refugee camp. It was alleged that he was handed over to the Fatah "Hawks" on 1 April 1995, and reportedly killed in Jabalyia refugee camp. At the time the present report was finalized no replies had been received from the Palestinian Authority.

## IV. CONCLUSIONS AND RECOMMENDATIONS

### A. Capital punishment

540. In its resolution 1995/73, the Commission on Human Rights requested the Special Rapporteur to "continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto".

541. In 1994, the Special Rapporteur presented a detailed analysis of his concerns with regard to the death penalty (E/CN.4/1994/7, paras. 673-687). In 1995, the Special Rapporteur's action in response to allegations of violations of the right to life in connection with capital punishment continued to be guided by the following three basic principles:

(a) The desirability of abolition of the death penalty, as expressed on numerous occasions by the General Assembly, the Economic and Social Council and the Human Rights Committee;

(b) The need to ensure the highest possible standards of independence, competence, objectivity and impartiality of judges and full respect of guarantees for a fair trial in proceedings which may lead to the imposition of the death penalty, including respect for the right to an adequate defence and the rights to appeal and to seek pardon, commutation of the sentence or clemency;

(c) Full observance of special restrictions on the application of the death penalty for crimes committed by persons below 18 years of age, mentally retarded or insane persons, pregnant women and young mothers.

Desirability of the abolition of the death penalty

542. The Special Rapporteur has pointed out in previous reports his position with regard to the desirability of the abolition of the death penalty (see E/CN.4/1994/7, paras. 674-677 and E/CN.4/1995/61, para. 374). He applauds the fact that the international community on different occasions in 1995 has taken an increasingly firm stand against the death penalty. He noted a growing interest of the international community in the prevention of executions which were about to be carried out in 1995 after trials which did not meet the international standards or after trials in which death sentences were imposed on minors. The trend towards abolition of capital punishment was also reflected in the most recent quinquennial report of the Secretary-General on capital punishment submitted to the Economic and Social Council in 1995 (E/1995/78 and Add.1 and Add.1/Corr.1), in which it is noted that an unprecedented number of countries had abolished or suspended the use of the death penalty. He calls upon States to adopt measures to strengthen the trend towards the abolition of the death penalty, and he welcomes the fact that a number of countries have made the decision to abolish the death penalty.

543. The Special Rapporteur wishes to express his appreciation for reports he has received concerning the abolition of the death penalty adopted by the Council of Europe under the Sixth Optional Protocol to the European Convention on Human Rights. The Special Rapporteur notes with satisfaction that new members joining the Council of Europe are required to sign within one year and ratify within three years after joining the organization the Sixth Optional Protocol to the European Convention, and that a moratorium on executions is required to be put into effect immediately after joining the organization.

544. The Special Rapporteur, however, also received reports about the extension of the scope of capital punishment in a number of countries to offenses which were previously not punishable by death. In this regard, he expressed his concern about the extension of the death penalty for crimes of

robbery with violence as approved by the National Assembly in Côte d'Ivoire in March 1995. He also wishes to express his concern about information he received indicating that in March 1995, the Congress in Guatemala approved the extension of the death penalty to anyone convicted of kidnapping, including accomplices who threaten to kill victims of kidnapping. The Special Rapporteur addressed a letter to the United States of America after being informed that the death penalty would be reintroduced in the State of New York in September 1995. As the present report was being finalized, the Special Rapporteur was informed that the Ruling Armed Forces Council of the Gambia had issued a decree on 12 August 1995 reinstating the death penalty, which had been abolished in 1993. He deplores these developments and is of the opinion that they are in clear violation of the international trend towards abolishing the death penalty.

545. In view of the fact that the loss of life is irreparable, the Special Rapporteur, on previous occasions, strongly supported the conclusions of the Human Rights Committee and emphasized that the abolition of capital punishment is most desirable in order fully to respect the right to life. In this context it may be mentioned that in South Africa, capital punishment was abolished not only because it was considered to be in keeping with the right to life, but also because it was considered to be cruel and inhuman treatment. The Special Rapporteur therefore urges strongly States which have extended the scope of the death penalty or reinstated the death penalty to reconsider their decision.

Fair trial

546. During all trials, but in particular during trials in which capital punishment might be imposed, both in the pre-trial stage and during the actual trial before the court all safeguards and guarantees for due process, as provided for in such international instruments as the Universal Declaration of Human Rights (arts. 10 and 11), the International Covenant on Civil and Political Rights (arts. 9, 14 and 15), the Safeguards guaranteeing protection of the rights of those facing the death penalty, as well as Economic and Social Council resolution 1989/65 on their implementation, must be fully respected, especially where the life of the defendant is at stake.

547. At all stages, defendants charged with capital offences must benefit from the fullest guarantees for an adequate defence. This includes an adequate provision for State-funded legal aid by competent defence lawyers. The presumption of innocence must be maintained until the guilt of the defendants has been proved beyond all reasonable doubt and the highest standards must be applied for the gathering and assessment of evidence, while mitigating factors must be taken into account. In this context, the Special Rapporteur wishes to express his concern about the existence of laws, for example as in Singapore and Indonesia, which seem to be in violation of the last principle. As pointed out in previous reports, proceedings leading to the imposition of capital punishment must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries. Efforts and interventions were therefore coordinated with the Special Rapporteur on the independence of judges and lawyers to intervene in cases of common concern, as for example in Nigeria.

548. In addition, a procedure must be guaranteed in which both the factual and legal aspects of the case may be reviewed by a higher tribunal, composed of judges other than those who dealt with the case at the first instance. In this context, the Special Rapporteur welcomes the developments in France, where steps are currently being taken for a review of the "cassation procedures". He calls upon other States whose legal system is inspired by the French legal tradition to take similar measures to bring their legislation into line with international standards in this regard. In addition, the defendant's rights to seek pardon or commutation of the death sentence must be ensured. The Special Rapporteur is concerned about reports that in some countries this procedure might be used to hasten the execution, since clemency is sometimes sought without the consent of the convicted, as has been reported, for example, in Indonesia.

549. During 1995, the Special Rapporteur received numerous and alarming allegations about legislation and State practices leading to the imposition and execution of death sentences where the defendants did not fully benefit from guarantees and safeguards as mentioned above. Such reports concerned the following countries (for details see chap. III): Algeria, Chad, China, Egypt, Georgia, Indonesia, Iran (Islamic Republic of), Iraq, Kuwait, Kyrgyzstan, Libyan Arab Jamahiriya, Lithuania, Nigeria, Rwanda, Saudi Arabia, Singapore, Trinidad and Tobago, Ukraine, United States of America, Uzbekistan.

550. In addition, a disturbing number of reports were received relating to the imposition of the death penalty by special courts, set up with the aim of speeding up proceedings. In general, it can be concluded that such courts often lack independence, either because the judges are accountable to the executive, or because they are military officers on active duty within the chain-of-command structure of the army. Time-limits which are sometimes set for the conclusion of different trial stages before such special jurisdictions gravely affect the defendant's right to an adequate defence. The right to appeal, if it exists, is often extremely limited. In some cases, the law establishing special courts also provides for an extension of the scope of capital offences to crimes which were previously not punishable by death. The Special Rapporteur regrets to note again that, as a general rule, the standards of due process of law and respect for the right to life before such jurisdictions are lower than in ordinary criminal proceedings. He wishes to refer, in this context, to the sections of his report on Egypt and Nigeria. He urges the authorities to bring the procedures for trials before such courts into line with the international standards for a fair trial.

551. During the period under review, the Special Rapporteur was informed about the secrecy surrounding the trial and application of the death penalty in a number of States, in particular Belarus, China and Ukraine. According to information received, family members of a convicted person are not informed when executions take place and do not have access to the body subsequently as the body is reported to be buried in an unmarked grave. The Special Rapporteur reiterates that this constitutes a violation of the right to a public trial and also ignores the rights of the convicted persons, as well as those of their families. The Special Rapporteur calls upon States to see to it that the convicted persons as well as their family members do have access to information with regard to the execution. In this connection, the Special Rapporteur wishes to emphasize the fundamental importance of the right to a

public trial to which those accused of an offence are entitled. Moreover, offences which carry the death penalty must be clearly defined.

552. In summary, it must be emphasized that once a death sentence has been carried out, judicial errors can no longer be remedied. The Special Rapporteur therefore urges the Governments of all States in which the death penalty has not been abolished to ensure that proceedings which may lead to the imposition of the death penalty are conducted in accordance with the highest standards of due process and that accused persons fully benefit from all safeguards and guarantees set forth in the pertinent international instruments.

553. The Special Rapporteur recommends that States establish in their internal legislation a period of at least six months before a death sentence imposed by a court of first instance can be carried out, so as to allow adequate time for the preparation of appeals to a court of higher jurisdiction and petitions for clemency. This would prevent the hasty execution of people who have been convicted and prevent the execution of people who still have appeals pending. In addition, officials who are responsible for carrying out an execution should be fully informed of the state of appeals and petitions for clemency of the prisoner in question, and they should be instructed not to carry out an execution while any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence is still pending.

Inapplicability of the death penalty

554. Article 6, paragraph 5, of the International Covenant on Civil and Political Rights stipulates that "sentence of death shall not be imposed for crimes committed by persons below eighteen years of age". This principle prohibits capital punishment for juvenile offenders, and has also been embodied in other international instruments, in particular the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") and the Safeguards guaranteeing protection of the rights of those facing the death penalty. The Special Rapporteur therefore found the reports he continued to receive with regard to the imposition of death sentences on minors in Pakistan and the United Arab Emirates particularly disturbing. He calls upon those States to bring their internal legislation into line with international standards.

555. According to international instruments, capital punishment should not be imposed on mentally retarded or insane persons. The Special Rapporteur remains extremely concerned about the large number of allegations received in relation to the imposition of the death penalty on such persons in several states of the United States of America. He is also concerned about reports of similar cases in Cuba and Kyrgyzstan. The Special Rapporteur recommends that a clearer definition of mental retardation should be provided, in line with the recommendation made by the Economic and Social Council in 1989.

Restrictions on the use of the death penalty

556. In paragraph 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in 1984, it is stated that the scope of crimes subject to the death penalty

should not go beyond intentional crimes with lethal or other extremely grave consequences. It can be concluded from this that the death penalty should be eliminated for crimes such as economic crimes and drug-related offences. In this respect, the Special Rapporteur expresses his concern at the increasing number of persons who are being executed for drug-related offences. The Special Rapporteur welcomes the fact that Poland, Belarus and Armenia have abolished the death penalty for various economic crimes (E/1995/78, paras. 26, 29; E/1995/78/Add.1, para. 3).

557. The Special Rapporteur is extremely disturbed by reports which suggest that the executions of persons in some countries might be carried out for reasons other than punishment for a crime committed. In this regard, the Special Rapporteur expressed his great dismay at reports he received concerning the situation in China where, allegedly, organs of freshly executed persons are used for transplantation, or organs might be removed even before the execution takes place. In view of the gravity of these allegations, the Special Rapporteur urges the authorities to carry out a thorough investigation into this matter.

## B. Impunity

558. In his report to the Commission on Human Rights at its fiftieth and fifty-first sessions, the Special Rapporteur set out in detail the obligations imposed on Governments under international law to investigate allegations of violations of the right to life, punish the perpetrators and award compensation to the victims (see E/CN.4/1994/7, paras. 688-699 and E/CN.4/1995/61, paras. 398-410).

559. It is the obligation of Governments under international law to carry out exhaustive and impartial investigations into allegations of violations of the right to life, to identify, bring to justice and punish their perpetrators, to grant compensation to the victims or their families, and to take effective measures to avoid future recurrence of such violations. The Principles on the Effective Prevention and investigation of Extra-legal, Arbitrary and Summary Executions set forth in detail the aforementioned obligations. In addition, regarding deaths as a result of excessive use of force, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provide that arbitrary or abusive use of force and firearms by law enforcement officials is to be punished as a criminal offence under national law (principle 7). Furthermore, the Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions lays down procedures for conducting investigations into extra-legal executions or killings.

560. The right of every person to enjoy his or her human rights under protection, if necessary, of appropriate judicial and administrative institutions, is entrenched, inter alia, in articles 6, 7 and 8 of the Universal Declaration of Human Rights, article 2, paragraph 3, article 9, paragraph 5, and article 15, paragraph 2, of the International Covenant on Civil and Political Rights, articles I, IV, V and VII of the Convention on the Prevention and Punishment of the Crime of Genocide, the four Geneva Conventions of 1949 and the two Additional Protocols thereto of 1977.

561. The Special Rapporteur has noted that impunity continues to be the principal cause of the perpetuation and encouragement of violations of human rights, and particularly extrajudicial, summary or arbitrary executions.

562. According to the information received, violations of human rights with impunity continue in countries such as Colombia, Brazil, Cambodia, Chad, El Salvador, Guatemala, Indonesia, Iraq, Liberia, Mauritania and Peru, despite the fact that legal provisions for the prosecution of violators of human rights exist. In most of the allegations received, sources refer to the fact that either no investigations at all were initiated in cases of violations of human rights or the investigations were never concluded. Frequently, the authorities do not react to complaints filed by the victims, their families or representatives, or by international organs, including the Special Rapporteur. In this connection, the Special Rapporteur wishes to remind Governments of their obligation to initiate inquiries into allegations as soon as they are brought to their attention, particularly where the alleged execution is imminent. Legislation should also permit victims or their families to initiate such proceedings. The Special Rapporteur calls on all Governments to enact legislation enabling the competent authorities to fulfil their obligations under international law irrespective of whether or not the victims are able to provide evidence to identify the authors of human rights abuses against them, and to ensure that these obligations are implemented in practice.

563. The reports and allegations that have come before the Special Rapporteur indicate that grave breaches of the above-mentioned obligations occur at all levels. In some cases, the basis for impunity is legislation which exempts perpetrators of human rights abuses from prosecution. The promulgation in June 1995 of an amnesty law in Peru, which discontinued investigations and judicial proceedings linked to past human rights violations and rendered ineffective those sentences which had been handed down for such crimes, is a clear example. Under this enactment, a general amnesty was granted to all military, police or civil officials who had committed human rights violations within the framework of the struggle against terrorism and drug trafficking since May 1980. Furthermore, the Special Rapporteur was informed that on 15 February 1995, the Togolese National Assembly granted selective amnesty with regard to human rights violations which occurred during the unrest of 25 March 1993 and 5 and 6 January 1994, and all politically motivated offences committed before 15 December 1994.

564. In this regard, the Special Rapporteur considers that even if in exceptional cases Governments may decide that perpetrators should benefit from measures that would exempt them from or limit the extent of their punishment, the obligation of the Governments to bring them to justice and hold them formally accountable remains. Principle 19 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions states that "in no circumstances ... shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, summary or arbitrary executions". Furthermore, amnesty law has very little or no concern for the rights of victims. In this context, the Special Rapporteur appeals to all Governments concerned to revise any legislation in force which exempts from prosecution those involved in violations of the right to life.

565. The attention of the Special Rapporteur has been drawn to the fact that there are numerous cases in which perpetrators of violations of the right to life have been tried, but the sentences imposed on them were not proportionate to the gravity of the offences committed. Sources also refer to the fact that frequently, low-ranking individuals are convicted while those in positions of command escape responsibility for having planned and ordered the violations. The Special Rapporteur calls on all Governments to prosecute those involved in the planning and carrying out of alleged extrajudicial, summary or arbitrary executions, including those in positions of authority who failed to prevent them. Furthermore, he recommends the establishment of a permanent international criminal justice system with a broad mandate and sufficient means and which could conduct proper investigations to ensure the implementations of its decisions.

566. According to information received, investigations concerning human rights violations were jeopardized as a result of intimidation and threats directed against victims and witnesses in Argentina, Brazil, Colombia, Mexico, Nigeria, Paraguay, Pakistan, Peru and Turkey in the course of 1995.

567. In some countries, problems relating to the proper functioning of the judiciary, which affect in particular its independence and impartiality, also encourage impunity. Special commissions of inquiry to monitor the independence, impartiality and competence of judges in ordinary courts have sometimes been created to deal with such problems. In some cases the establishment of such commissions is publicly announced, but in practice their recommendations are not followed. Moreover, such mechanisms are sometimes used as tools to evade the obligation to carry out thorough, prompt and impartial investigations into alleged violations of the right to life. The Special Rapporteur recommends that the results of these investigations should be made public and the recommendations should be binding on the authorities.

568. The Special Rapporteur has noted that many government replies take the form of blanket denials or contain imprecise information. This indicates unwillingness to account fully for the allegations of violations of the right to life.

569. He wishes to point out that some countries claim that their judiciary does not function properly and use this as a pretext to justify trials before military tribunals. In some countries where perpetrators of human rights violations are tried before military courts, security forces personnel escape punishment due to an ill-conceived esprit de corps. In practice, this almost always results in impunity for the security forces. The Special Rapporteur wishes to appeal to the Governments concerned to provide for an independent and impartial judiciary to deal with all cases of alleged violations of the right to life. Where national legislation gives jurisdiction to military tribunals to deal with cases involving violations of the right to life by members of the security forces, such tribunals must conform to the highest standards, as required by the pertinent international instruments, as regards their independence, impartiality and competence. The Special Rapporteur reiterates that the rights of accused persons must be fully guaranteed before such tribunals, and provision must be made to allow victims or their families to participate in the proceedings. He furthermore calls on Governments to

ensure that security forces cooperate fully with the relevant services in an effort to identify and bring to justice those responsible for human rights violations.

570. The Special Rapporteur believes that there is a clear relationship between effective investigation of human rights violations and prevention of their recurrence. In this context, the Special Rapporteur suggests that where national judicial institutions do not function, international jurisdiction in cases of violations of the right to life be considered as a means to combat impunity. States should bring to justice those responsible in any territory under their jurisdiction, no matter where the violations were committed. The Special Rapporteur calls on all Governments to take the initiative towards the recognition of international jurisdiction over violators of the right to life. In this connection, he supports the creation of a new convention which, in line with the Convention against Torture, would give jurisdiction to all countries on matters relating to extrajudicial, summary or arbitrary executions, including massacres. The Special Rapporteur welcomes the establishment of a preparatory committee to draft a convention for the creation of an international criminal court based upon the draft statute prepared by the International Law Commission.

571. As previously stated in his reports to the Commission on Human Rights, he welcomes the establishment of International Tribunals for the former Yugoslavia and Rwanda, under Security Council resolutions 808 (1993) and 955 (1994). He reiterates his appeal to all Governments concerned to cooperate fully with these tribunals, in order to bring the authors of crimes committed in the former Yugoslavia and Rwanda to justice as well as to encourage the possible deterrent effect this may have in other potentially similar situations.

### C. Rights of the victims

572. The Special Rapporteur has reiterated on previous occasions the importance of the recognition of the right of victims or their families to know the truth and to receive adequate compensation, since it constitutes both a recognition of the State's responsibility for the acts of its organs and an expression of respect for the human being.

573. The Special Rapporteur would like to emphasize, however, that the granting of compensation presupposes compliance with the obligation of the State to carry out exhaustive and impartial investigations into allegations of human rights violations with a view to identifying and prosecuting the perpetrators. Thus, financial or other compensation provided to victims or their families does not exempt the Government from its obligation to investigate such allegations.

574. The Special Rapporteur remains concerned about the small number of States that have provided him with information concerning national legislation and/or practice with regard to the granting of compensation. He appreciates the steps taken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to continue its study on the issue of the establishment of international norms for compensation for victims of human

rights violations, and encourages its Special Rapporteur, Mr. Theo van Boven, to continue with the elaboration of principles which could serve as guidelines for Governments adopting measures in this respect.

575. In this context, the Special Rapporteur wishes to note the need to establish a voluntary fund to enable victims and their families to receive compensation. Such a mechanism would encourage the participation of victims in judicial proceedings. In this context, the Special Rapporteur refers to the need to comply with the provisions embodied in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985, in particular articles 4, 5 and 6.

576. The Special Rapporteur welcomes steps taken in this respect by the Government of Colombia to provide compensation for victims whose cases have been investigated by the Inter-American Court of Human Rights or the Human Rights Committee and he hopes that this will be extended to cases other than those investigated by the two bodies mentioned. The Special Rapporteur also welcomes the steps taken by the Chilean authorities to provide the widow of Carmelo Soria with a monthly allowance as compensation. The Special Rapporteur also welcomes the information he received from the Bangladesh authorities but, as he pointed out in his observations, the fact that compensation has been provided does not detract from the obligation to carry out exhaustive and impartial investigations into the allegations. Finally, the Special Rapporteur welcomes the steps taken by the National Human Rights Commission of Mexico, which concluded that the survivors of the massacre which took place at Aguas Blancas or their families should be compensated. The Special Rapporteur wishes to call upon other States to follow the example of the States mentioned above, and to adapt their national legislation so as to ensure that compensation will be paid to victims of human rights abuses.

## D. Allegations received and acted upon

### Death threats

577. The Special Rapporteur received allegations concerning death threats or fear for the lives and physical integrity of more than 400 persons. Therefore, urgent appeals on behalf of those under threats continued to be an essential part of the Special Rapporteur's mandate. In the past year, he has transmitted urgent appeals, with the aim of preventing loss of life to the Governments of: Angola, Argentina, Brazil, Cambodia, China, Colombia, El Salvador, Guatemala, Honduras, Indonesia, Iran (Islamic Republic of), Mexico, Pakistan, Paraguay, Peru, South Africa, Sudan, Swaziland and Togo. In each case the lives of human rights activists, members of the political opposition, trade unionists, community workers, religious activists, writers and journalists were reported to be at serious risk.

578. In this context, a number of urgent appeals were sent in 1995, relating to the civilian population which was at risk of being attacked by State forces in, among other countries, Burundi, the Russian Federation (Chechnya) and Sri Lanka. The situation of Burundian and Rwandan refugees in Zaire, who are at risk of being attacked by State security forces, is most preoccupying. The Special Rapporteur is particularly concerned about the situation in

Colombia (24 appeals), Guatemala (13 appeals) and Peru (8 appeals), where there seems to be a pattern of intimidation and threats have persisted over a period of years.

579. The Special Rapporteur urges all Governments to adopt effective measures, in accordance with the requirements of each particular case, to ensure full protection of those who are at risk of extrajudicial, summary or arbitrary execution. The Special Rapporteur calls upon the authorities to conduct investigations in respect of all instances of death threats or attempts against lives which are brought to their attention, regardless of whether or not any judicial or other procedures have been activated by those under threat.

Deaths in custody

580. The Special Rapporteur received numerous reports concerning deaths in custody in Algeria, Armenia, Azerbaijan, Bahrain, Bulgaria, Colombia, China, Cuba, the Czech Republic, Egypt, France, India, Indonesia, Iran (Islamic Republic of), Israel, Kenya, Morocco, Myanmar, Nepal, Nigeria, Pakistan, Palestine, Peru, Philippines, the Republic of Moldova, the Sudan, the Syrian Arab Republic, Tajikistan, Turkey, Ukraine and the United Kingdom.

581. In a number of cases such deaths were alleged to be the result of torture or other cruel, inhuman or degrading treatment. This was particularly the case in Cuba, China, India, Iran (Islamic Republic of), Indonesia, Israel, Kenya, Myanmar, Pakistan, Peru and the Sudan. The Special Rapporteur also received allegations of deaths in custody due to medical neglect or otherwise untenable prison conditions in Colombia, Cuba, Mongolia, Morocco, Nigeria, Peru and the Syrian Arab Republic.

582. The Special Rapporteur appeals to all Governments to ensure that conditions of detention in their countries conform to the Standard Minimum Rules for the Treatment of Prisoners and other pertinent international instruments. He also urges them to make efforts to ensure full respect for international norms and principles prohibiting any form of torture or other cruel, inhuman or degrading treatment. Prison guards and other law enforcement personnel should receive training so as to be familiar with these norms as well as the rules and regulations concerning the use of force and firearms to prevent escape or control disturbances. The Special Rapporteur also calls on the competent authorities to prosecute and punish all those who through action or omission are found to be responsible for the death of any person held in custody or in breach of the aforementioned international instruments, and to compensate the victims of such violations.

Deaths due to abuse of power by law enforcement officials

583. The Special Rapporteur received a considerable number of allegations concerning violations of the right to life as a consequence of excessive use of force by police and security officers. Allegations in this category were reported in Algeria, Angola, Bahrain, Bangladesh, Bolivia, Brazil, Bulgaria, Burkina Faso, Canada, Chad, Chile, China, Colombia, Cuba, Ecuador, Egypt, El Salvador, France, Georgia, Germany, Guatemala, India, Indonesia, Iraq,

Israel, Kenya, Mauritania, Mexico, Nigeria, Pakistan, Palestine, Panama, Peru, Romania, the Philippines, South Africa, Sri Lanka, the Sudan, Swaziland, Thailand, Turkey, Ukraine, the United Kingdom and Zaire.

584. In Bahrain, Bangladesh, Brazil, Burkina Faso, Chile, Colombia, Egypt, India, Indonesia, Mexico, Nigeria, Panama, the Sudan, Turkey, Uruguay and Zaire people were reportedly killed by security forces using excessive force against participants in demonstrations and other manifestations.

585. The Special Rapporteur calls on all Governments to ensure that the security forces receive thorough training in human rights matters and, in particular, with regard to the restrictions on the use of force and firearms in the discharge of their duties. Such training in human rights matters should include methods of crowd-control without resorting to lethal force. Full and independent investigations must be carried out into alleged deaths due to abuse of power, and all law enforcement officials responsible for violations of the right to life must be held accountable.

Violations of the right to life and paramilitary groups

586. The Special Rapporteur is extremely concerned about the numerous reports of violations of the right to life by paramilitary groups and death squads, which appear to cooperate closely with the security forces of the following Governments: Bangladesh, Botswana, Brazil, Burundi, Colombia, Guatemala, India, Pakistan, Peru, Philippines and Turkey.

Violations of the right to life in armed conflict

587. The Special Rapporteur received reports concerning deaths as a consequence of international and internal armed conflicts in various parts of the world. Massive violations of the right to life were said to have been committed particularly against civilians. This was reported, for example, in Burundi, Cambodia, Chad, Ethiopia, Guatemala, Liberia, Mali, the Russian Federation, Rwanda, Sierra Leone, Sri Lanka and Turkey.

588. In the Russian Federation, Chechnya, thousands of people were reportedly killed, either as a direct consequence of hostilities (deliberate and indiscriminate shelling of residential areas with heavy weaponry, including aerial bombardments), by arbitrary execution or as a result of sieges blocking off water, food and medical supplies and refusal to evacuate sick or wounded persons. Children, the elderly and those in poor health were particularly affected by such measures.

589. The Special Rapporteur calls on all parties to conflicts, whether international or internal, to respect the norms and standards of international human rights and humanitarian law which are enacted to protect the lives of the civilian population as well as combatants who are captured or who lay down their arms.

Expulsion of persons to a country where their lives are in danger

590. The Special Rapporteur received reports about the imminent extradition of one or more persons to countries where their lives might be at risk. All

Governments should apply the norms and principles contained in international instruments that refer to this particular question. They should refrain from extraditing a person in circumstances where his or her safety is not fully guaranteed. In addition, States which are in the process of extraditing or expelling people should take all measures to protect the right to life of refugees (Burundi, United Republic of Tanzania, Zaire) and foreigners (United Kingdom and Germany).

## E. Issues of special concern to the Special Rapporteur

591. The following sections contain conclusions and recommendations in response to requests to pay special attention to violations of the right to life directed against certain groups, made by the Commission on Human Rights, as well as a review of certain issues which the Special Rapporteur considers of particular importance.

### 1. Violations of the right to life of women

592. During the period under review, there was a total of 114 cases transmitted by the Special Rapporteur in respect of violations of the right to life of women. Thus, in 8.2 per cent of the cases transmitted to Governments in 1995, victims were women. However, this figure only includes those cases which clearly specified that the victim was a female or it was obvious from the name of the person concerned. The actual number of allegations in which women were victims of extrajudicial, summary or arbitrary executions is believed to be much higher. Violations of the right to life of women, including death threats and harassment, were reported in the following countries: Algeria (2), Argentina (1), Bangladesh (1), Brazil (5), China (4), Colombia (22), Cuba (14), Ecuador (1), Guatemala (9), Honduras (3), India (1), Indonesia (2), Iran, (Islamic Republic of) (4), Kenya (1), Liberia (1), Mexico (2), Myanmar (2), Nigeria (3), Papua New Guinea (2), Peru (8), Philippines (2), Sierra Leone (2), Singapore (1), Sri Lanka (3), Sudan (2), South Africa (1), Turkey (5), United Arab Emirates (1), United Kingdom of Great Britain and Northern Ireland (1) and Venezuela (2).

593. The number of cases dealt with in 1995 is very similar to that of previous years and therefore the Special Rapporteur's analysis as presented to the Commission on Human Rights at its fiftieth and fifty-first sessions continues to apply. Women do not appear to be targeted by reason of their sex, but because of their activities. The fact that there are fewer women in political, trade union or judicial positions as compared with men implies that they are also less exposed to acts of violence. Women who actively participate in public life seem to be in a similar position to that of their male counterparts.

### 2. Violations of the right to life of minors

594. The Special Rapporteur is extremely disturbed at allegations of violations of the right to life of persons under 18 years of age. During 1995 the Special Rapporteur acted upon more than 45 cases where the victims were minors. Despite the fact that this figure shows, in principle, a notable decrease in comparison with previous years, it has to be emphasized that this number only accounts for those cases in which the source clearly provided the

relevant information. A large number of cases received in which unidentified minors had been killed are not included. The actual number of minors who have been victims of violations of the right to life is much higher than the number mentioned above. Allegations received stressed the fact that children are victims of different categories of violation of the right to life, ranging from the death penalty, death threats, deaths in custody and death during armed conflicts.

595. Cases in which the victims were minors were sent to the following countries: Bahrain (3), Burkina Faso (1), Chad (1), Chile (1), China (1), Colombia (6), Cuba (7), Ecuador (1), France (1), Germany (1), Guatemala (1), India (3), Indonesia (1), Israel (2), Liberia (1 case involving 28 unidentified minors), Nigeria (1), Pakistan (2), Papua New Guinea (5), Peru (1), Sri Lanka (5), United Arab Emirates (1), Turkey (2).

596. The Special Rapporteur is very concerned about the fact that legislation in some countries continues to allow capital punishment to be imposed on children. Thus, during 1995 he sent two urgent appeals on behalf of minors considered to be at risk of imminent (judicial) execution: Salamat Masih (Pakistan) and Sarah Balabagan (United Arab Emirates).

597. The Special Rapporteur urges the Governments concerned to ensure full respect for the right to life of children, including street children, and to protect them effectively from all forms of violence. Once again, he calls upon countries where capital punishment can be imposed on children to bring their national legislation into line with pertinent international legal instruments.

### 3. The right to life and mass exoduses

598. During 1995, the Special Rapporteur continued to receive information about massive displacement of populations. Frequently, displacements were reported to arise as a result of conflicts with civilians during counterinsurgency operations. This would appear to be the case in Turkey, where most of the Kurdish population in the south-east region of the country has been displaced as a result of the confrontation between the Turkish security forces and the PKK guerrillas. According to information received, in Liberia approximately 150,000 persons have died, 1.5 million have been displaced and 800,000 have fled to neighbouring countries. Massive displacement has also been reported in the former Yugoslavia and in the Russian Federation (Chechnya). Similarly, large-scale displacements have also been reported in Sri Lanka arising out of the conflict between the armed forces and the Tamil Tigers. In Colombia, attacks by the army and paramilitary groups against the guerrillas have also been reported to have led to the displacement of a large proportion of the population. The Jumma people of the Chittagong Hill Tracts in Bangladesh are believed to have been displaced internally and some of them have sought refuge in India. Conflicts between the Mexican army and the Zapatista National Liberation Army caused large numbers of people to flee from the area of strife.

599. Displacement has also emerged as a result of communal violence, as was the case in Burundi, where the Hutu population in Bujumbura has fled to the bush due to attacks perpetrated by the mainly Tutsi army. Some of the Tutsi

population in Burundi continues to be gathered in camps as a result of the attacks carried out by Hutus after October 1993. Confrontations between the Banyarwanda and the indigenous communities in North Kivu (Zaire) are believed to have led the former to leave the Walikale region. The Special Rapporteur wishes to emphasize that there is no adequate protection at an international level of internally displaced persons, who may already be victims of the actions and failures of their own Government. In this context, special consideration should be given to removing tensions which could arise between internally displaced persons and refugees who receive international assistance.

600. The Special Rapporteur received information about violations of the right to life against refugees and internally displaced persons in Rwanda and Burundi. Attacks by armed forces were also reported against the resettled community of Kekchi origin in Guatemala, in which 11 persons were killed as a result of an attack by the armed forces. The community consists of refugees mostly of Kekchi indigenous origin allegedly resettled in the Chisec area after their repatriation from Mexico. In addition, the Special Rapporteur received reports that Myanmar refugees living in Thailand were being attacked by the Democratic Kayin Buddhist Organization, an armed group reportedly supported by the State Law and Order Restoration Council, Myanmar's military authority. The attacks reportedly were part of a systematic pattern of intimidation against unarmed civilians seeking refuge in Thailand.

601. The Special Rapporteur reminds Governments that when a person has been accepted in the territory of a State, it is the obligation of the State to protect his life and physical integrity. Those responsible for the violations should be brought to justice before the national courts of the host countries. If necessary, international assistance should be sought in order to deal with the overload. The Special Rapporteur calls upon the Governments concerned to do their utmost to prevent violations of the right to life of refugees living in camps and ensure the voluntary repatriation of refugees in safety and dignity to their country of origin.

### 4. Violations of the right to life against persons exercising their right to freedom of opinion and expression

602. More than 800 cases were received by the Special Rapporteur in 1995 in respect of violations of the rights to life involving a breach of the rights to freedom of opinion and expression, peaceful assembly and association. Reports were received about death threats, killings and executions of members of opposition political parties, trade unions, student movements, community organizations, human rights groups, as well as journalists, writers, and those defending the rights of peasants and indigenous people. The Special Rapporteur is extremely concerned about killings of those participating in peaceful demonstrations, as a result of abuse of power, which have been reported in Bahrain, Chile, India, Indonesia (East Timor), Nigeria, Panama and Zaire. Furthermore, he continues to be preoccupied about reports of death threats and killings of journalists which allegedly occurred in Algeria, Angola, Cambodia, China, Guatemala, the Islamic Republic of Iran, Nepal and Turkey.

603. The Special Rapporteur urges Governments to respect fully the rights of all persons to freedom of opinion and expression and to peaceful assembly and association, as guaranteed in the pertinent international legal instruments. He calls on Governments to revise their legislation, if necessary, in order to stop penalizing activities relating to the non-violent expression of political opinion.

### 5. Right to life and the administration of justice

604. The Special Rapporteur continued to pay attention to the protection of human rights in the administration of justice, particularly in judicial proceedings leading to the imposition of the death penalty. The Special Rapporteur has given special attention to whether the requisite standards laid down under the accepted international norms were in fact adhered to in cases where the death penalty could be imposed. In this connection, he has continued to appeal to Governments to ensure that rights and guarantees of due process of law are respected in these proceedings. The Special Rapporteur appeals to Governments to promulgate, where necessary, legislation in respect of criminal procedures that is in conformity with the safeguards and guarantees embodied in the pertinent international instruments. Furthermore, he urges the Governments to ensure that such provisions are enforced in practice.

605. The Special Rapporteur is particularly concerned about the increase in allegations of extrajudicial, summary or arbitrary killings and death threats to persons involved in the administration of justice. In this context, he sent communications to the following Governments: Argentina, Brazil, Colombia, Guatemala, Liberia, Mexico, Nigeria, Pakistan, Paraguay, Peru and Turkey.

606. The Special Rapporteur wishes to call upon Governments to ensure that adequate protection is given to persons involved in the administration of justice, in order to facilitate the exercise of their functions without being subjected to harassment, threats or to extrajudicial, summary or arbitrary executions.

### 6. Violations of the right to life of persons belonging to national or ethnic, religious and linguistic minorities

607. During 1995, the Special Rapporteur sent a number of cases in which it was alleged that the victims belonged to national, ethnic, religious or linguistic minorities. Communications were sent on behalf of, among others, the Roma community in Bulgaria, Tibetans in China, people of Kurdish ethnic origin and indigenous communities in Chiapas, Mexico.

### 7. Violations of the right to life of staff members of the United Nations and of the specialized agencies

608. The Special Rapporteur noted that there was an escalation of violence against international humanitarian workers, which included killings and death threats against United Nations officials and members of non-governmental

organizations. He was informed that death threats were sent to the UNHCR representative and the commander in Muyinga province, Burundi, of the Observer Mission of the OAU. Furthermore, threats against the Special Representative of the Secretary-General in Burundi had been published in several local newspapers. The Special Rapporteur is deeply concerned about the killings of international humanitarian workers and encourages the authorities to carry out independent and immediate investigations so that perpetrators may be brought to justice. He reiterates that the Governments concerned have an obligation to ensure the safety and security of humanitarian workers, as stipulated in the 1994 Convention on the Safety of United Nations and Associated Personnel. He deplores the large number of deaths of United Nations peace-keepers which have occurred in 1995, mostly connected with the armed conflict in the former Yugoslavia.

### 8. Violation of the right to life and terrorism

609. The Special Rapporteur acknowledges the problem of violence caused by armed opposition groups resorting to terrorism which has lead to killings of members of the armed forces and numerous civilians. Algeria, Colombia, Egypt, France, Israel, India, Pakistan, Sri Lanka, the Sudan and Turkey are cases in point. While the Special Rapporteur is particularly conscious of the grave difficulties faced by concerned Governments in controlling violent actions by terrorist groups, he noted that in many cases security forces resort to excessive and arbitrary use of force to counteract terrorist actions. While recognizing the need for Governments to take action to combat terrorism, the Special Rapporteur takes a serious view of the fact that innocent civilians have been killed unnecessarily, as the right to life is absolute and must not be derogated from, even under the most difficult circumstances. Governments must respect the right to life of all persons, including members of armed groups and even when they demonstrate total disregard for the lives of others. The Special Rapporteur wishes to remind Governments that request him to take action on killings committed by terrorists that they do not fall within the purview of his mandate, unless the perpetrators are in one way or another linked to a State.

610. He urges all Governments facing this problem to ensure that counterinsurgency operations are conducted in such a way that the loss of life is minimal. Governments facing this problem must fully respect the right to life in accordance with the restrictions on the use of force and firearms set forth in the pertinent international legal instruments.

### 9. The right to life and civil defence forces

611. During the period under review, the Special Rapporteur continued to receive reports of violations of the right to life committed by civil defence forces either in cooperation with security forces or with their acquiescence. Reports received in 1995 confirm that civil defence forces tend to be integrated into the Government's counterinsurgency strategy and that their members continue to enjoy virtual impunity. Reportedly, allegations of violations of the right to life have been made against the Patrullas de Autodefensa Campesinas, in Guatemala, the rondas campesinas in Peru, Citizen's Armed Forces Geographical Units in the Philippines, the Home Guards in Sri Lanka and counterguerrilla and village guards in Turkey. Victims were

mainly peasants who were attacked either because they were suspected to be members or collaborators of armed insurgents or because they refused to participate in self-defence groups.

612. Reference is made to the recommendations of the Special Rapporteur in his previous reports to the Commission on Human Rights. He reiterates that such groups should be trained to act in conformity with the restrictions on the use of force and firearms for law enforcement officials. Arms provided for their use by the military should be registered and their use subjected to strict control. All abuses should be punished and effective measures taken to prevent their recurrence. Governments concerned should take steps so that no one is coerced into participating in civil defence groups. Recommendations made by the Special Rapporteur do not appear to have been implemented, and may lead him to urge the Governments concerned to dismantle such groups and ensure that arms distributed to them are returned to the security forces.

### 10. Violations of the right to life and land-mines

613. Deaths caused by the planting of mines have been referred to the Special Rapporteur for action and intervention. In view of the difficulty in establishing culpability, especially in cases where there is no allegation of State involvement, the Special Rapporteur would wish to refer this question to the Commission on Human Rights for consideration. This question is of particular importance as it is estimated that 100 million mines are believed to have been laid in 64 countries of the world.

### 11. Cooperation with the High Commissioner for Human Rights

614. Under paragraph 6 of Commission resolution 1995/73, the Special Rapporteur drew the attention of the High Commissioner for Human Rights in regard to the serious situation in Burundi. He suggested that measures should be undertaken in order to avoid further eruption of violence leading to violations of the right to life of civilians. The Special Rapporteur also had consultations with the High Commissioner regarding his visit to Indonesia and Colombia and discussed with him the situation in Nigeria.

### 12. Prevention

615. Globally, extrajudicial, summary or arbitrary executions have not ceased and there are no indications of any decrease. The Special Rapporteur is appalled that violations of the right to life have become routine in certain countries. In this context, he is compelled to emphasize that violations of the right to life can only come to an end if States show a genuine will to recognize the need to enact the necessary safeguards and guarantees in order to protect the right to life of its citizens. Despite declarations of commitment made by some Governments to protect the right to life, there is no evidence of implementation in practice. Prevention is the only available course if Governments wish to avoid irreparable loss of lives. He reiterates the need for Governments to take preventive steps in order to avoid violations of the right to life and wishes to emphasize that the cost of prevention is relatively small when compared with the enormous amount of resources needed to put an end to violations and human suffering once conflicts have started. In

this connection, he urges Governments to seek peaceful solutions at the earliest possible stage, to avoid potential conflict situations and to refrain from fomenting or condoning ethnic violence.

616. The Special Rapporteur considers that legal actions brought against perpetrators of violations of human rights will greatly reduce the incidence of such violations. Impunity is the key to the continuation of human rights violations. The Special Rapporteur urges Governments to investigate all instances of alleged violations of the right to life, to prosecute and punish the perpetrators and to grant adequate compensation to the victims or their families.

617. He calls on the Commission on Human Rights to intensify its efforts to establish an early-warning mechanism that could be activated when signs of a crisis become imminent. It is necessary to learn to recognize signs of incipient conflict situations that may degenerate into humanitarian and human rights crises with severe consequences. The Special Rapporteur is concerned that little interest is shown by the Commission in reports presented by special rapporteurs, representatives, independent experts and working groups. Consequently, the impact that these procedures could have with regard to early warning and prevention of human rights violations is lost.

618. He appeals to the international community to continue to reinforce its efforts to curb the phenomenon of extrajudicial, summary or arbitrary executions by putting into practice the international standards which already exist and take action when shortcomings are identified. He reiterates his readiness to provide full collaboration and assistance in this cause of common concern.

## 15. World Conference on Human Rights

619. The Special Rapporteur wishes to emphasize that, contrary to the announcements made at the World Conference, the resources of the Secretariat have not been strengthened. He believes that his mandate would need to be serviced by at least three full-time Professionals and a full-time secretary. In view of the constraints imposed on special rapporteurs in respect of visits to Geneva for consultations, owing to both a lack of resources and the onerous schedules of the special rapporteurs in the context of their professional responsibilities, it is suggested that provision be made for every special rapporteur to have access to electronic mail.

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